

Chapter 1 General Taxation Policies

Part 1 General Provisions

59-1-101 Definitions.

As used in this title:

- (1) "Commission" and "tax commission" mean the State Tax Commission.
- (2) "Deficiency" is as defined in Section 59-1-1402.

Amended by Chapter 212, 2009 General Session

Part 2 State Tax Commission

59-1-201 Composition of commission -- Terms -- Removal from office -- Appointment.

- (1) The commission shall be composed of four members appointed by the governor with the consent of the Senate.
- (2) Subject to Subsection (3), the term of office of each commissioner shall be for four years and expire on June 30 of the year the term ends.
- (3) The governor shall stagger a term described in Subsection (2) so that the term of one commissioner expires each year.
- (4) A commissioner shall hold office until a successor is appointed and qualified.
- (5)
 - (a) The governor may remove a commissioner from office for neglect of duty, inefficiency, or malfeasance, after notice and a hearing.
 - (b) If the governor removes a commissioner from office and appoints another person to replace the commissioner, the person the governor appoints to replace the commissioner:
 - (i) shall serve for the remainder of the unexpired term; and
 - (ii) may be reappointed as the governor determines.
- (6)
 - (a) Before appointing a commissioner, the governor shall request a list of names of potential appointees from:
 - (i) the Utah State Bar;
 - (ii) one or more organizations that represent certified public accountants who are licensed to practice in the state;
 - (iii) one or more organizations that represent persons who assess or appraise property in the state; and
 - (iv) one or more national organizations that:
 - (A) offer a professional certification in the areas of property tax, sales and use tax, and state income tax;
 - (B) require experience, education, and testing to obtain the certification; and
 - (C) require additional education to maintain the certification.
 - (b) In appointing a commissioner, the governor shall consider:

- (i) to the extent names of potential appointees are submitted, the names of potential appointees submitted in accordance with Subsection (6)(a); and
- (ii) any other potential appointee of the governor's own choosing.

Amended by Chapter 370, 2014 General Session

59-1-202 Qualifications of members of commission.

- (1) Each member of the commission:
 - (a) shall have significant tax experience that is relevant to holding office as a commissioner;
 - (b) shall have knowledge of tax administration or tax compliance;
 - (c) shall have executive and administrative experience; and
 - (d) except for one member who has substantial knowledge and expertise in the theory and practice of ad valorem taxation as described in Subsection (2)(a), shall have substantial knowledge and experience in one or more of the following:
 - (i) the theory and practice of excise taxation;
 - (ii) the theory and practice of income taxation;
 - (iii) the theory and practice of sales and use taxation; and
 - (iv) the theory and practice of corporate taxation.
- (2)
 - (a) At least one member of the commission shall have substantial knowledge and experience in the theory and practice of ad valorem taxation.
 - (b) At least one member of the commission shall have substantial knowledge and experience in the theory and practice of accounting.
- (3) The membership of the commission shall represent composite skills in accounting, auditing, property assessment, management, law, and finance.

Amended by Chapter 370, 2014 General Session

59-1-203 Conflicts of interest -- Salaries -- Ethics.

- (1) No person appointed as a member of the commission may hold any other office under the laws of this state, the government of the United States, or any other state. Each member shall devote full time to the duties of the office and may not hold any other position of trust or profit under the Constitution nor engage in any other occupation that would create a direct conflict with the duties of a commissioner.
- (2) The salaries of the commissioners shall be established by the governor within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation. Commissioners shall also be allowed expenses as provided by law.
- (3) No commissioner, executive director, or consultant shall engage in political or charitable fund raising activities. Commissioners and commission employees are governed by Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

Amended by Chapter 114, 1991 General Session

59-1-204 Oath of office.

- (1) Before entering upon the duties of office, a member of the commission shall qualify by taking the constitutional oath of office.
- (2) The oath described in Subsection (1) shall be recorded and filed.

Amended by Chapter 356, 2010 General Session

59-1-205 Chairman -- Quorum -- Voting -- Sessions.

- (1) The governor shall designate one of the members of the commission as chairperson.
- (2)
 - (a) Three members of the commission constitute a quorum for the transaction of business.
 - (b) A quorum of the commission must participate in any order that constitutes a final agency action on:
 - (i) a formal adjudicative proceeding over which the commission has jurisdiction;
 - (ii) an informal adjudicative proceeding over which the commission has jurisdiction; or
 - (iii) an initial hearing conducted pursuant to Section 59-1-502.5.
 - (c) If a commission vote results in a tie vote on any matter described in Subsection (2)(b), the position of the taxpayer is considered to have prevailed.
- (3) The commission shall be in session and open for the transaction of business during ordinary business hours each day.
- (4) The commission may hold sessions or conduct investigations at any place in the state to facilitate the performance of its duties.

Amended by Chapter 80, 2003 General Session

59-1-206 Appointment of staff -- Executive director -- Compensation -- Administrative secretary -- Internal audit unit -- Appeals office staff -- Division directors -- Criminal tax investigators.

- (1) The commission shall appoint the following persons who are qualified, knowledgeable, and experienced in matters relating to their respective positions, exempt under Title 67, Chapter 19, Utah State Personnel Management Act, to serve at the pleasure of, and who are directly accountable to, the commission:
 - (a) in consultation with the governor and with the consent of the Senate, an executive director;
 - (b) an administrative secretary;
 - (c) an internal audit unit; and
 - (d) an appeals staff.
- (2) The governor shall establish the executive director's salary within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.
- (3) Division directors shall be appointed by the executive director subject to the approval of the commission. The division directors are exempt employees under Title 67, Chapter 19, Utah State Personnel Management Act.
- (4)
 - (a) The executive director may with the approval of the commission employ additional staff necessary to perform the duties and responsibilities of the commission. These employees are subject to Title 67, Chapter 19, Utah State Personnel Management Act.
 - (b)
 - (i) The executive director may under Subsection (4)(a) employ criminal tax investigators to help the commission carry out its duties and responsibilities regarding criminal provisions of the state tax laws. The executive director may not employ more than eight criminal tax investigators at one time.
 - (ii) The executive director may designate investigators hired under this Subsection (4)(b) as special function officers, as defined in Section 53-13-105, to enforce the criminal provisions of the state tax laws.

- (iii) Notwithstanding Section 49-15-201, any special function officer designated under this Subsection (4)(b) may not become or be designated as a member of the Public Safety Retirement Systems.
- (5) The internal audit unit shall provide the following:
 - (a) an examination to determine the honesty and integrity of fiscal affairs, the accuracy and reliability of financial statements and reports, and the adequacy and effectiveness of financial controls to properly record and safeguard the acquisition, custody, and use of public funds;
 - (b) an examination to determine whether commission administrators have faithfully adhered to commission policies and legislative intent;
 - (c) an examination to determine whether the operations of the divisions and other units of the commission have been conducted in an efficient and effective manner;
 - (d) an examination to determine whether the programs administered by the divisions and other units of the commission have been effective in accomplishing intended objectives; and
 - (e) an examination to determine whether management control and information systems are adequate and effective in assuring that commission programs are administered faithfully, efficiently, and effectively.
- (6) The appeals office shall receive and hear appeals to the commission and shall conduct the hearings in compliance with formal written rules approved by the commission. The commission has final review authority over the appeals.

Amended by Chapter 131, 2003 General Session

59-1-207 Administration plan -- Executive director's functions.

The commission shall prepare and implement a plan for the administration of the divisions and other offices of the commission which do not report directly to the commission. The plan shall, by rule, establish the duties and responsibilities to be delegated to the executive director.

Enacted by Chapter 4, 1987 General Session

59-1-208 Offices.

The main office of the commission shall be located in Salt Lake City. The commission may establish branch offices necessary for the convenience of the public and the efficient performance of its duties.

Enacted by Chapter 4, 1987 General Session

59-1-209 Official seal -- Authenticated copies of records as evidence.

The commission shall adopt an official seal, and shall file an impression and description of the seal with the Division of Archives. Copies of any records in the possession of the commission may be authenticated with the seal of the commission attested by the signature of the commission's administrative secretary, and when so authenticated shall be received in evidence to the same extent and with the same effect as the originals.

Enacted by Chapter 4, 1987 General Session

59-1-210 General powers and duties.

The powers and duties of the commission are as follows:

- (1) to sue and be sued in its own name;

- (2) to adopt rules and policies consistent with the Constitution and laws of this state to govern the commission, executive director, division directors, and commission employees in the performance of their duties;
- (3) to adopt rules and policies consistent with the Constitution and laws of the state, to govern county boards and officers in the performance of any duty relating to assessment, equalization, and collection of taxes;
- (4) to prescribe the use of forms relating to the assessment of property for state or local taxation, the equalization of those assessments, the reporting of property or income for state or local taxation purposes, or for the computation of those taxes and the reporting of any information, statistics, or data required by the commission;
- (5) to administer and supervise the tax laws of the state;
- (6) to prepare and maintain from year to year a complete record of all lands subject to taxation in this state, and all machinery used in mining and all property or surface improvements upon or appurtenant to mines or mining claims;
- (7) to exercise general supervision over assessors and county boards of equalization including the authority to enforce Section 59-2-303.1, and over other county officers in the performance of their duties relating to the assessment of property and collection of taxes, so that all assessments of property are just and equal, according to fair market value, and that the tax burden is distributed without favor or discrimination;
- (8) to reconvene any county board of equalization which, when reconvened, may only address business approved by the commission and extend the time for which any county board of equalization may sit for the equalization of assessments;
- (9) to confer with, advise, and direct county treasurers, assessors, and other county officers in matters relating to the assessment and equalization of property for taxation and the collection of taxes;
- (10) to provide for and hold annually at such time and place as may be convenient a district or state convention of county assessors, auditors, and other county officers to consider and discuss matters relative to taxation, uniformity of valuation, and changes in the law relative to taxation and methods of assessment, to which county assessors and other officers called to attend shall attend at county expense;
- (11) to direct proceedings, actions, and prosecutions to enforce the laws relating to the penalties, liabilities, and punishments of public officers, persons, and officers or agents of corporations for failure or neglect to comply with the statutes governing the reporting, assessment, and taxation of property;
- (12) to cause complaints to be made in the proper court seeking removal from office of assessors, auditors, members of county boards, and other assessing, taxing, or disbursing officers, who are guilty of official misconduct or neglect of duty;
- (13) to require county attorneys to immediately institute and prosecute actions and proceedings in respect to penalties, forfeitures, removals, and punishments for violations of the laws relating to the assessment and taxation of property in their respective counties;
- (14) to require any person to furnish any information required by the commission to ascertain the value and the relative burden borne by all kinds of property in the state, and to require from all state and local officers any information necessary for the proper discharge of the duties of the commission;
- (15) to examine all records relating to the valuation of property of any person;
- (16) to subpoena witnesses to appear and give testimony and produce records relating to any matter before the commission;

- (17) to cause depositions of witnesses to be taken as in civil actions at the request of the commission or any party to any matter or proceeding before the commission;
- (18) to authorize any member or employee of the commission to administer oaths and affirmations in any matter or proceeding relating to the exercise of the powers and duties of the commission;
- (19) to visit periodically each county of the state, to investigate and direct the work and methods of local assessors and other officials in the assessment, equalization, and taxation of property, and to ascertain whether the law requiring the assessment of all property not exempt from taxation, and the collection of taxes, have been properly administered and enforced;
- (20) to carefully examine all cases where evasion or violation of the laws for assessment and taxation of property is alleged, to ascertain whether existing laws are defective or improperly administered;
- (21) to furnish to the governor from time to time such assistance and information as the governor requires;
- (22) to transmit to the governor and to each member of the Legislature recommendations as to legislation which will correct or eliminate defects in the operation of the tax laws and will equalize the burden of taxation within the state;
- (23) to correct any error in any assessment made by it at any time before the tax is due and report the correction to the county auditor, who shall enter the corrected assessment upon the assessment roll;
- (24) to compile and publish statistics relating to taxation in the state and prepare and submit an annual budget to the governor for inclusion in the state budget to be submitted to the Legislature;
- (25) to perform any further duties imposed by law, and exercise all powers necessary in the performance of its duties;
- (26) to adopt a schedule of fees assessed for services provided by the commission, unless otherwise provided by statute. The fee shall be reasonable and fair, and shall reflect the cost of services provided. Each fee established in this manner shall be submitted to and approved by the Legislature as part of the commission's annual appropriations request. The commission may not charge or collect any fee proposed in this manner without approval by the Legislature;
- (27) to comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in its adjudicative proceedings; and
- (28) to distribute the money deposited into the Rural Health Care Facilities Account as required by Section 26-9-4.

Amended by Chapter 278, 2010 General Session

59-1-211 Uniform system of accounts.

- (1) The commission shall establish a uniform system of accounts and when established it shall be followed by all taxing entities within the state.
- (2) The commission may make rules directly relating to the administration of a uniform system of accounts and shall periodically publish these rules and distribute them to all taxing entities.
- (3) The commission shall certify a list of all taxing entities that do not comply with the laws and rules pertaining to uniform accounts to the county attorney of the county in which the entity is located. The county attorney shall immediately notify the official or officials charged by law with complying with them. If the official or officials fail to so comply within 60 days after receipt of the notice, the county attorney shall commence proceedings in district court in mandamus to require performance.

Amended by Chapter 3, 1988 General Session

59-1-213 Annual report on Internal Revenue Code changes.

The commission shall annually provide an electronic report to the Revenue and Taxation Interim Committee on or before the October interim meeting concerning the impacts of the reliance of this title on the Internal Revenue Code, including:

- (1) any modification to the Internal Revenue Code that is likely to have a fiscal impact on state revenues:
 - (a) that became effective:
 - (i) if the commission is preparing its initial report in accordance with this section, during the previous calendar year; or
 - (ii) if the commission has prepared a previous report in accordance with this section, after the most recent report prepared in accordance with this section; or
 - (b) that have been enacted and will become effective prior to the end of the calendar year that begins January 1 following the current report prepared in accordance with this section;
- (2) the fiscal impacts a modification described in Subsection (1) may have on state revenues; and
- (3) statutory or administrative options to:
 - (a) implement the effects on this title of a modification described in Subsection (1); or
 - (b) change this title to prevent this title from implementing a modification described in Subsection (1).

Amended by Chapter 135, 2016 General Session

Part 3
Miscellaneous Provisions

59-1-301 Payment under protest -- Action to recover.

In all cases of levy of taxes, licenses, or other demands for public revenue which is deemed unlawful by the party whose property is taxed, or from whom the tax or license is demanded or enforced, that party may pay under protest the tax or license, or any part deemed unlawful, to the officers designated and authorized by law to collect the tax or license; and then the party so paying or a legal representative may bring an action in the tax division of the appropriate district court against the officer to whom the tax or license was paid, or against the state, county, municipality, or other taxing entity on whose behalf it was collected, to recover the tax or license or any portion of the tax or license paid under protest.

Enacted by Chapter 3, 1988 General Session

59-1-302 Penalty for nonpayment of certain taxes -- Jeopardy proceedings.

- (1) This section applies to the following:
 - (a) a tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
 - (b) a tax under Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;
 - (c) a tax under Chapter 10, Part 4, Withholding of Tax;
 - (d) a tax under Chapter 12, Sales and Use Tax Act;
 - (e) a tax under Chapter 13, Part 2, Motor Fuel;
 - (f) a tax under Chapter 13, Part 3, Special Fuel; and

- (g) a tax under Chapter 13, Part 4, Aviation Fuel.
- (2)
 - (a) A person required to collect, truthfully account for, and pay over a tax listed in Subsection (1) who willfully fails to collect the tax, fails to truthfully account for and pay over the tax, or attempts in any manner to evade or defeat the tax or the payment of the tax, is liable for a penalty equal to the total amount of the tax evaded, not collected, not accounted for, or not paid over.
 - (b) The penalty described in Subsection (2)(a) is in addition to other penalties provided by law.
- (3)
 - (a) If the commission determines in accordance with Subsection (2) that a person is liable for the penalty, the commission shall mail a notice of the proposed penalty to the person.
 - (b) The notice of proposed penalty shall:
 - (i) set forth the basis of the assessment; and
 - (ii) be mailed:
 - (A) in accordance with Section 59-1-1404; and
 - (B) to the person's last-known address.
- (4) Upon receipt of the notice of proposed penalty, the person against whom the penalty is proposed may:
 - (a) pay the amount of the proposed penalty at the place and time stated in the notice; or
 - (b) proceed in accordance with the review procedures of Subsection (5).
- (5) A person against whom a penalty is proposed in accordance with Subsections (2) and (3) may contest the proposed penalty by filing a petition for an adjudicative proceeding with the commission.
- (6) If the commission determines that the collection of the penalty is in jeopardy, this section does not prevent the immediate collection of the penalty in accordance with the procedures and requirements for an emergency proceeding under Title 63G, Chapter 4, Administrative Procedures Act.
- (7)
 - (a) In a hearing before the commission and in a judicial review of the hearing, the commission and the court shall consider any inference and evidence that a person has willfully failed to collect, truthfully account for, or pay over a tax listed in Subsection (1).
 - (b) It is prima facie evidence that a person has willfully failed to collect, truthfully account for, or pay over a tax listed in Subsection (1) if the commission or a court finds that the person charged with the responsibility of collecting, accounting for, or paying over the taxes:
 - (i) made a voluntary, conscious, and intentional decision to prefer other creditors over the state government or utilize the tax money for personal purposes;
 - (ii) recklessly disregarded obvious or known risks that resulted in the failure to collect, truthfully account for, or pay over the tax; or
 - (iii) failed to investigate or to correct mismanagement, having notice that the tax was not or is not being collected, accounted for, or paid over as provided by law.
 - (c) The commission or court is not required to find a bad motive or specific intent to defraud the government or deprive the government of revenue to establish willfulness under this section.
 - (d) If the commission determines that a person is liable for the penalty under Subsection (2), the commission shall assess the penalty and give notice and demand for payment in accordance with Section 59-1-1411.

Amended by Chapter 212, 2009 General Session

59-1-303 Authorization for commission to apply overpayment of any tax or fee against taxpayer's liability for any tax or fee.

(1) For purposes of this section:

(a) "Overpayment" means an amount equal to the sum of:

(i) the amount by which a tax or fee a taxpayer paid exceeds the taxpayer's liability for the tax or fee; and

(ii) interest accruing to the amount described in Subsection (1)(a)(i).

(b) "Tax or fee" means any tax or fee administered by the commission.

(2) The commission may apply an overpayment of any tax or fee against a taxpayer's liability for any tax or fee.

(3) If the commission applies an overpayment of a tax or fee against a taxpayer's liability for a tax or fee, the commission shall notify the taxpayer in writing.

Enacted by Chapter 183, 1999 General Session

59-1-304 Definition -- Limitations on maintaining a class action that relates to a tax or fee -- Requirements for a person to be included as a member of a class in a class action -- Rulemaking authority -- Limitations on recovery by members of a class -- Severability.

(1) As used in this section, "tax or fee" means a tax or fee administered by the commission.

(2) A class action that relates to a tax or fee may not be maintained in any court if a claim sought by a representative party seeking to maintain the class action arises as a result of:

(a) a person collecting a tax or fee from the representative party if the representative party is not required by law to pay the tax or fee; or

(b) any of the following that requires a change in the manner in which a tax or fee is required to be collected or paid:

(i) an administrative rule made by the commission;

(ii) a private letter ruling issued by the commission; or

(iii) a decision issued by:

(A) the commission; or

(B) a court of competent jurisdiction.

(3)

(a) A person may be included as a member of a class in a class action relating to a tax or fee only if the person:

(i) exhausts all administrative remedies with the commission; and

(ii) requests in writing to be included as a member of the class.

(b)

(i) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules to simplify and expedite the administrative remedies a person shall exhaust as required by Subsection (3)(a).

(ii) The rules required by Subsection (3)(b)(i) may include rules providing for:

(A) expedited filing procedures and forms;

(B) consolidation of hearings procedures as may be reasonably needed to accommodate potential inclusion of similarly situated persons; and

(C) the designation of test or sample cases to avoid multiple hearings.

(4) Subject to Subsection (5), in a class action brought under this section against the state or its political subdivisions in which members of the class are awarded a refund or credit of a tax or fee by a court of competent jurisdiction, the total amount that may be recovered by members of the class may not exceed the difference between:

- (a) the sum of:
 - (i) the amount of the refund or credit awarded to members of the class; and
 - (ii) interest as provided in Section 59-1-402; and
- (b) if awarded in accordance with Subsection (5), the sum of:
 - (i) reasonable costs; and
 - (ii) reasonable attorney fees.
- (5)
 - (a) For purposes of Subsection (4), at the discretion of the court, the court may award:
 - (i) reasonable costs as determined by the court; and
 - (ii) reasonable attorney fees determined under Subsection (5)(b).
 - (b) Reasonable attorney fees awarded in a class action may not exceed a reasonable hourly rate for work actually performed:
 - (i) as determined by the court; and
 - (ii) taking into account all facts and circumstances that the court considers reasonable.
- (6) If any provision of this section, or the application of any provision of this section to any person or circumstance is held unconstitutional or invalid by a court of competent jurisdiction, the remainder of the section shall be given effect without the invalid provision or application.

Amended by Chapter 135, 2016 General Session

59-1-305 Convenience fee to cover the costs of electronic payments.

- (1) As used in this section:
 - (a) "Electronic payment" has the same meaning as defined in Section 41-1a-1221.
 - (b) "Electronic payment fee" has the same meaning as defined in Section 41-1a-1221.
- (2) The commission may collect a convenience electronic payment fee established in accordance with the procedures and requirements of Section 63J-1-504 to cover the costs of electronic payments of taxes and fees administered by the commission.
- (3) Notwithstanding any other provisions of this title, the commission shall use a fee imposed under this section as a dedicated credit to cover the costs of electronic payments.

Amended by Chapter 183, 2009 General Session

59-1-306 Definition -- State Tax Commission Administrative Charge Account -- Amount of administrative charge -- Deposit of revenues into the restricted account -- Interest deposited into General Fund -- Expenditure of money deposited into the restricted account.

- (1) As used in this section, "qualifying tax, fee, or charge" means a tax, fee, or charge the commission administers under:
 - (a) Chapter 12, Sales and Use Tax Act, other than a tax under Chapter 12, Part 1, Tax Collection, or Chapter 12, Part 18, Additional State Sales and Use Tax Act;
 - (b) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
 - (c) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;
 - (d) Section 19-6-714;
 - (e) Section 19-6-805;
 - (f) Section 59-27-105;
 - (g) Section 69-2-5;
 - (h) Section 69-2-5.5; or
 - (i) Section 69-2-5.6.

- (2) There is created a restricted account within the General Fund known as the "State Tax Commission Administrative Charge Account."
- (3) Subject to the other provisions of this section, the restricted account shall consist of administrative charges the commission retains and deposits in accordance with this section.
- (4) For purposes of this section, the administrative charge is a percentage of revenues the commission collects from each qualifying tax, fee, or charge of not to exceed the lesser of:
 - (a) 1.5%; or
 - (b) an equal percentage of revenues the commission collects from each qualifying tax, fee, or charge sufficient to cover the cost to the commission of administering the qualifying taxes, fees, or charges.
- (5) The commission shall deposit an administrative charge into the restricted account.
- (6) Interest earned on the restricted account shall be deposited into the General Fund.
- (7) The commission shall expend money appropriated by the Legislature to the commission from the restricted account to administer qualifying taxes, fees, or charges.

Enacted by Chapter 309, 2011 General Session

Part 4

Penalties, Interest, and Confidentiality of Information

59-1-401 Definitions -- Offenses and penalties -- Rulemaking authority -- Statute of limitations -- Commission authority to waive, reduce, or compromise penalty or interest.

- (1) As used in this section:
 - (a) "Activated tax, fee, or charge" means a tax, fee, or charge with respect to which the commission:
 - (i) has implemented the commission's GenTax system; and
 - (ii) at least 30 days before implementing the commission's GenTax system as described in Subsection (1)(a)(i), has provided notice in a conspicuous place on the commission's website stating:
 - (A) the date the commission will implement the GenTax system with respect to the tax, fee, or charge; and
 - (B) that, at the time the commission implements the GenTax system with respect to the tax, fee, or charge:
 - (I) a person that files a return after the due date as described in Subsection (2)(a) is subject to the penalty described in Subsection (2)(c)(ii); and
 - (II) a person that fails to pay the tax, fee, or charge as described in Subsection (3)(a) is subject to the penalty described in Subsection (3)(b)(ii).
 - (b) "Activation date for a tax, fee, or charge" means with respect to a tax, fee, or charge, the later of:
 - (i) the date on which the commission implements the commission's GenTax system with respect to the tax, fee, or charge; or
 - (ii) 30 days after the date the commission provides the notice described in Subsection (1)(a)(ii) with respect to the tax, fee, or charge.
 - (c)
 - (i) Except as provided in Subsection (1)(c)(ii), "tax, fee, or charge" means:
 - (A) a tax, fee, or charge the commission administers under:

- (I) this title;
 - (II) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
 - (III) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;
 - (IV) Section 19-6-410.5;
 - (V) Section 19-6-714;
 - (VI) Section 19-6-805;
 - (VII) Section 32B-2-304;
 - (VIII) Section 34A-2-202;
 - (IX) Section 40-6-14;
 - (X) Section 69-2-5;
 - (XI) Section 69-2-5.5; or
 - (XII) Section 69-2-5.6; or
 - (B) another amount that by statute is subject to a penalty imposed under this section.
- (ii) "Tax, fee, or charge" does not include a tax, fee, or charge imposed under:
- (A) Title 41, Chapter 1a, Motor Vehicle Act, except for Section 41-1a-301;
 - (B) Title 41, Chapter 3, Motor Vehicle Business Regulation Act;
 - (C) Chapter 2, Property Tax Act, except for Section 59-2-1309;
 - (D) Chapter 3, Tax Equivalent Property Act; or
 - (E) Chapter 4, Privilege Tax.
- (d) "Unactivated tax, fee, or charge" means a tax, fee, or charge except for an activated tax, fee, or charge.
- (2)
- (a) The due date for filing a return is:
- (i) if the person filing the return is not allowed by law an extension of time for filing the return, the day on which the return is due as provided by law; or
 - (ii) if the person filing the return is allowed by law an extension of time for filing the return, the earlier of:
 - (A) the date the person files the return; or
 - (B) the last day of that extension of time as allowed by law.
- (b) A penalty in the amount described in Subsection (2)(c) is imposed if a person files a return after the due date described in Subsection (2)(a).
- (c) For purposes of Subsection (2)(b), the penalty is an amount equal to the greater of:
- (i) if the return described in Subsection (2)(b) is filed with respect to an unactivated tax, fee, or charge:
 - (A) \$20; or
 - (B) 10% of the unpaid unactivated tax, fee, or charge due on the return; or
 - (ii) if the return described in Subsection (2)(b) is filed with respect to an activated tax, fee, or charge, beginning on the activation date for the tax, fee, or charge:
 - (A) \$20; or
 - (B)
 - (I) 2% of the unpaid activated tax, fee, or charge due on the return if the return is filed no later than five days after the due date described in Subsection (2)(a);
 - (II) 5% of the unpaid activated tax, fee, or charge due on the return if the return is filed more than five days after the due date but no later than 15 days after the due date described in Subsection (2)(a); or
 - (III) 10% of the unpaid activated tax, fee, or charge due on the return if the return is filed more than 15 days after the due date described in Subsection (2)(a).
- (d) This Subsection (2) does not apply to:

- (i) an amended return; or
 - (ii) a return with no tax due.
- (3)
- (a) A person is subject to a penalty for failure to pay a tax, fee, or charge if:
 - (i) the person files a return on or before the due date for filing a return described in Subsection (2)(a), but fails to pay the tax, fee, or charge due on the return on or before that due date;
 - (ii) the person:
 - (A) is subject to a penalty under Subsection (2)(b); and
 - (B) fails to pay the tax, fee, or charge due on a return within a 90-day period after the due date for filing a return described in Subsection (2)(a);
 - (iii)
 - (A) the person is subject to a penalty under Subsection (2)(b); and
 - (B) the commission estimates an amount of tax due for that person in accordance with Subsection 59-1-1406(2);
 - (iv) the person:
 - (A) is mailed a notice of deficiency; and
 - (B) within a 30-day period after the day on which the notice of deficiency described in Subsection (3)(a)(iv)(A) is mailed:
 - (I) does not file a petition for redetermination or a request for agency action; and
 - (II) fails to pay the tax, fee, or charge due on a return;
 - (v)
 - (A) the commission:
 - (I) issues an order constituting final agency action resulting from a timely filed petition for redetermination or a timely filed request for agency action; or
 - (II) is considered to have denied a request for reconsideration under Subsection 63G-4-302(3)(b) resulting from a timely filed petition for redetermination or a timely filed request for agency action; and
 - (B) the person fails to pay the tax, fee, or charge due on a return within a 30-day period after the date the commission:
 - (I) issues the order constituting final agency action described in Subsection (3)(a)(v)(A)(I); or
 - (II) is considered to have denied the request for reconsideration described in Subsection (3)(a)(v)(A)(II); or
 - (vi) the person fails to pay the tax, fee, or charge within a 30-day period after the date of a final judicial decision resulting from a timely filed petition for judicial review.
 - (b) For purposes of Subsection (3)(a), the penalty is an amount equal to the greater of:
 - (i) if the failure to pay a tax, fee, or charge as described in Subsection (3)(a) is with respect to an unactivated tax, fee, or charge:
 - (A) \$20; or
 - (B) 10% of the unpaid unactivated tax, fee, or charge due on the return; or
 - (ii) if the failure to pay a tax, fee, or charge as described in Subsection (3)(a) is with respect to an activated tax, fee, or charge, beginning on the activation date:
 - (A) \$20; or
 - (B)
 - (I) 2% of the unpaid activated tax, fee, or charge due on the return if the activated tax, fee, or charge due on the return is paid no later than five days after the due date for filing a return described in Subsection (2)(a);

- (II) 5% of the unpaid activated tax, fee, or charge due on the return if the activated tax, fee, or charge due on the return is paid more than five days after the due date for filing a return described in Subsection (2)(a) but no later than 15 days after that due date; or
- (III) 10% of the unpaid activated tax, fee, or charge due on the return if the activated tax, fee, or charge due on the return is paid more than 15 days after the due date for filing a return described in Subsection (2)(a).

(4)

(a) Beginning January 1, 1995, in the case of any underpayment of estimated tax or quarterly installments required by Sections 59-5-107, 59-5-207, 59-7-504, and 59-9-104, there shall be added a penalty in an amount determined by applying the interest rate provided under Section 59-1-402 plus four percentage points to the amount of the underpayment for the period of the underpayment.

(b)

- (i) For purposes of Subsection (4)(a), the amount of the underpayment shall be the excess of the required installment over the amount, if any, of the installment paid on or before the due date for the installment.
- (ii) The period of the underpayment shall run from the due date for the installment to whichever of the following dates is the earlier:
 - (A) the original due date of the tax return, without extensions, for the taxable year; or
 - (B) with respect to any portion of the underpayment, the date on which that portion is paid.
- (iii) For purposes of this Subsection (4), a payment of estimated tax shall be credited against unpaid required installments in the order in which the installments are required to be paid.

(5)

(a) Notwithstanding Subsection (2) and except as provided in Subsection (6), a person allowed by law an extension of time for filing a corporate franchise or income tax return under Chapter 7, Corporate Franchise and Income Taxes, or an individual income tax return under Chapter 10, Individual Income Tax Act, is subject to a penalty in the amount described in Subsection (5)(b) if, on or before the day on which the return is due as provided by law, not including the extension of time, the person fails to pay:

- (i) for a person filing a corporate franchise or income tax return under Chapter 7, Corporate Franchise and Income Taxes, the payment required by Subsection 59-7-507(1)(b); or
- (ii) for a person filing an individual income tax return under Chapter 10, Individual Income Tax Act, the payment required by Subsection 59-10-516(2).

(b) For purposes of Subsection (5)(a), the penalty per month during the period of the extension of time for filing the return is an amount equal to 2% of the tax due on the return, unpaid as of the day on which the return is due as provided by law.

(6) If a person does not file a return within an extension of time allowed by Section 59-7-505 or 59-10-516, the person:

(a) is not subject to a penalty in the amount described in Subsection (5)(b); and

(b) is subject to a penalty in an amount equal to the sum of:

(i) a late file penalty in an amount equal to the greater of:

- (A) \$20; or
- (B) 10% of the tax due on the return, unpaid as of the day on which the return is due as provided by law, not including the extension of time; and

(ii) a late pay penalty in an amount equal to the greater of:

- (A) \$20; or
- (B) 10% of the unpaid tax due on the return, unpaid as of the day on which the return is due as provided by law, not including the extension of time.

- (7)
- (a) Additional penalties for an underpayment of a tax, fee, or charge are as provided in this Subsection (7)(a).
 - (i) Except as provided in Subsection (7)(c), if any portion of an underpayment of a tax, fee, or charge is due to negligence, the penalty is 10% of the portion of the underpayment that is due to negligence.
 - (ii) Except as provided in Subsection (7)(d), if any portion of an underpayment of a tax, fee, or charge is due to intentional disregard of law or rule, the penalty is 15% of the entire underpayment.
 - (iii) If any portion of an underpayment is due to an intent to evade a tax, fee, or charge, the penalty is the greater of \$500 per period or 50% of the entire underpayment.
 - (iv) If any portion of an underpayment is due to fraud with intent to evade a tax, fee, or charge, the penalty is the greater of \$500 per period or 100% of the entire underpayment.
 - (b) If the commission determines that a person is liable for a penalty imposed under Subsection (7)(a)(ii), (iii), or (iv), the commission shall notify the person of the proposed penalty.
 - (i) The notice of proposed penalty shall:
 - (A) set forth the basis of the assessment; and
 - (B) be mailed by certified mail, postage prepaid, to the person's last-known address.
 - (ii) Upon receipt of the notice of proposed penalty, the person against whom the penalty is proposed may:
 - (A) pay the amount of the proposed penalty at the place and time stated in the notice; or
 - (B) proceed in accordance with the review procedures of Subsection (7)(b)(iii).
 - (iii) A person against whom a penalty is proposed in accordance with this Subsection (7) may contest the proposed penalty by filing a petition for an adjudicative proceeding with the commission.
 - (iv)
 - (A) If the commission determines that a person is liable for a penalty under this Subsection (7), the commission shall assess the penalty and give notice and demand for payment.
 - (B) The commission shall mail the notice and demand for payment described in Subsection (7)(b)(iv)(A):
 - (I) to the person's last-known address; and
 - (II) in accordance with Section 59-1-1404.
 - (c) A seller that voluntarily collects a tax under Subsection 59-12-107(2)(d) is not subject to the penalty under Subsection (7)(a)(i) if on or after July 1, 2001:
 - (i) a court of competent jurisdiction issues a final unappealable judgment or order determining that:
 - (A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b); and
 - (B) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through (d); or
 - (ii) the commission issues a final unappealable administrative order determining that:
 - (A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b); and
 - (B) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through (d).

- (d) A seller that voluntarily collects a tax under Subsection 59-12-107(2)(d) is not subject to the penalty under Subsection (7)(a)(ii) if:
 - (i)
 - (A) a court of competent jurisdiction issues a final unappealable judgment or order determining that:
 - (I) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b); and
 - (II) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through (d); or
 - (B) the commission issues a final unappealable administrative order determining that:
 - (I) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b); and
 - (II) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through (d); and
 - (ii) the seller's intentional disregard of law or rule is warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law.
- (8)
 - (a) Subject to Subsections (8)(b) and (c), the penalty for failure to file an information return, information report, or a complete supporting schedule is \$50 for each information return, information report, or supporting schedule up to a maximum of \$1,000.
 - (b) If an employer is subject to a penalty under Subsection (13), the employer may not be subject to a penalty under Subsection (8)(a).
 - (c) If an employer is subject to a penalty under this Subsection (8) for failure to file a return in accordance with Subsection 59-10-406(3) on or before the due date described in Subsection 59-10-406(3)(b)(ii), the commission may not impose a penalty under this Subsection (8) unless the return is filed more than 14 days after the due date described in Subsection 59-10-406(3)(b)(ii).
- (9) If a person, in furtherance of a frivolous position, has a prima facie intent to delay or impede administration of a law relating to a tax, fee, or charge and files a purported return that fails to contain information from which the correctness of reported tax, fee, or charge liability can be determined or that clearly indicates that the tax, fee, or charge liability shown is substantially incorrect, the penalty is \$500.
- (10)
 - (a) A seller that fails to remit a tax, fee, or charge monthly as required by Subsection 59-12-108(1)(a):
 - (i) is subject to a penalty described in Subsection (2); and
 - (ii) may not retain the percentage of sales and use taxes that would otherwise be allowable under Subsection 59-12-108(2).
 - (b) A seller that fails to remit a tax, fee, or charge by electronic funds transfer as required by Subsection 59-12-108(1)(a)(ii)(B):
 - (i) is subject to a penalty described in Subsection (2); and
 - (ii) may not retain the percentage of sales and use taxes that would otherwise be allowable under Subsection 59-12-108(2).
- (11)
 - (a) A person is subject to the penalty provided in Subsection (11)(c) if that person:

- (i) commits an act described in Subsection (11)(b) with respect to one or more of the following documents:
 - (A) a return;
 - (B) an affidavit;
 - (C) a claim; or
 - (D) a document similar to Subsections (11)(a)(i)(A) through (C);
 - (ii) knows or has reason to believe that the document described in Subsection (11)(a)(i) will be used in connection with any material matter administered by the commission; and
 - (iii) knows that the document described in Subsection (11)(a)(i), if used in connection with any material matter administered by the commission, would result in an understatement of another person's liability for a tax, fee, or charge.
- (b) The following acts apply to Subsection (11)(a)(i):
- (i) preparing any portion of a document described in Subsection (11)(a)(i);
 - (ii) presenting any portion of a document described in Subsection (11)(a)(i);
 - (iii) procuring any portion of a document described in Subsection (11)(a)(i);
 - (iv) advising in the preparation or presentation of any portion of a document described in Subsection (11)(a)(i);
 - (v) aiding in the preparation or presentation of any portion of a document described in Subsection (11)(a)(i);
 - (vi) assisting in the preparation or presentation of any portion of a document described in Subsection (11)(a)(i); or
 - (vii) counseling in the preparation or presentation of any portion of a document described in Subsection (11)(a)(i).
- (c) For purposes of Subsection (11)(a), the penalty:
- (i) shall be imposed by the commission;
 - (ii) is \$500 for each document described in Subsection (11)(a)(i) with respect to which the person described in Subsection (11)(a) meets the requirements of Subsection (11)(a); and
 - (iii) is in addition to any other penalty provided by law.
- (d) The commission may seek a court order to enjoin a person from engaging in conduct that is subject to a penalty under this Subsection (11).
- (e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules prescribing the documents that are similar to Subsections (11)(a)(i)(A) through (C).
- (12)
- (a) As provided in Section 76-8-1101, criminal offenses and penalties are as provided in Subsections (12)(b) through (e).
- (b)
- (i) A person who is required by this title or any laws the commission administers or regulates to register with or obtain a license or permit from the commission, who operates without having registered or secured a license or permit, or who operates when the registration, license, or permit is expired or not current, is guilty of a class B misdemeanor.
 - (ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(b)(i), the penalty may not:
 - (A) be less than \$500; or
 - (B) exceed \$1,000.
- (c)
- (i) With respect to a tax, fee, or charge, a person who knowingly and intentionally, and without a reasonable good faith basis, fails to make, render, sign, or verify a return within the time

required by law or to supply information within the time required by law, or who makes, renders, signs, or verifies a false or fraudulent return or statement, or who supplies false or fraudulent information, is guilty of a third degree felony.

(ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(c)(i), the penalty may not:

- (A) be less than \$1,000; or
- (B) exceed \$5,000.

(d)

(i) A person who intentionally or willfully attempts to evade or defeat a tax, fee, or charge or the payment of a tax, fee, or charge is, in addition to other penalties provided by law, guilty of a second degree felony.

(ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(d)(i), the penalty may not:

- (A) be less than \$1,500; or
- (B) exceed \$25,000.

(e)

(i) A person is guilty of a second degree felony if that person commits an act:

(A) described in Subsection (12)(e)(ii) with respect to one or more of the following documents:

- (I) a return;
- (II) an affidavit;
- (III) a claim; or
- (IV) a document similar to Subsections (12)(e)(i)(A)(I) through (III); and

(B) subject to Subsection (12)(e)(iii), with knowledge that the document described in Subsection (12)(e)(i)(A):

- (I) is false or fraudulent as to any material matter; and
- (II) could be used in connection with any material matter administered by the commission.

(ii) The following acts apply to Subsection (12)(e)(i):

- (A) preparing any portion of a document described in Subsection (12)(e)(i)(A);
- (B) presenting any portion of a document described in Subsection (12)(e)(i)(A);
- (C) procuring any portion of a document described in Subsection (12)(e)(i)(A);
- (D) advising in the preparation or presentation of any portion of a document described in Subsection (12)(e)(i)(A);
- (E) aiding in the preparation or presentation of any portion of a document described in Subsection (12)(e)(i)(A);
- (F) assisting in the preparation or presentation of any portion of a document described in Subsection (12)(e)(i)(A); or
- (G) counseling in the preparation or presentation of any portion of a document described in Subsection (12)(e)(i)(A).

(iii) This Subsection (12)(e) applies:

(A) regardless of whether the person for which the document described in Subsection (12)(e)(i)(A) is prepared or presented:

- (I) knew of the falsity of the document described in Subsection (12)(e)(i)(A); or
- (II) consented to the falsity of the document described in Subsection (12)(e)(i)(A); and

(B) in addition to any other penalty provided by law.

(iv) Notwithstanding Section 76-3-301, for purposes of this Subsection (12)(e), the penalty may not:

- (A) be less than \$1,500; or
- (B) exceed \$25,000.

- (v) The commission may seek a court order to enjoin a person from engaging in conduct that is subject to a penalty under this Subsection (12)(e).
- (vi) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules prescribing the documents that are similar to Subsections (12)(e)(i)(A)(I) through (III).
- (f) The statute of limitations for prosecution for a violation of this Subsection (12) is the later of six years:
 - (i) from the date the tax should have been remitted; or
 - (ii) after the day on which the person commits the criminal offense.
- (13)
 - (a) Subject to Subsection (13)(b), an employer that is required to file a form with the commission in accordance with Subsection 59-10-406(8) is subject to a penalty described in Subsection (13)(b) if the employer:
 - (i) fails to file the form with the commission in an electronic format approved by the commission as required by Subsection 59-10-406(8);
 - (ii) fails to file the form on or before the due date provided in Subsection 59-10-406(8);
 - (iii) fails to provide accurate information on the form; or
 - (iv) fails to provide all of the information required by the Internal Revenue Service to be contained on the form.
 - (b) For purposes of Subsection (13)(a), the penalty is:
 - (i) \$30 per form, not to exceed \$75,000 in a calendar year, if the employer files the form in accordance with Subsection 59-10-406(8), more than 14 days after the due date provided in Subsection 59-10-406(8) but no later than 30 days after the due date provided in Subsection 59-10-406(8);
 - (ii) \$60 per form, not to exceed \$200,000 in a calendar year, if the employer files the form in accordance with Subsection 59-10-406(8), more than 30 days after the due date provided in Subsection 59-10-406(8) but on or before June 1; or
 - (iii) \$100 per form, not to exceed \$500,000 in a calendar year, if the employer:
 - (A) files the form in accordance with Subsection 59-10-406(8) after June 1; or
 - (B) fails to file the form.
- (14) Upon making a record of its actions, and upon reasonable cause shown, the commission may waive, reduce, or compromise any of the penalties or interest imposed under this part.

Amended by Chapter 369, 2015 General Session

59-1-402 Definitions -- Interest.

- (1) As used in this section:
 - (a) "Final judicial decision" means a final ruling by a court of this state or the United States for which the time for any further review or proceeding has expired.
 - (b) "Retroactive application of a judicial decision" means the application of a final judicial decision that:
 - (i) invalidates a state or federal taxation statute; and
 - (ii) requires the state to provide a refund for an overpayment that was made:
 - (A) prior to the final judicial decision; or
 - (B) during the 180-day period after the final judicial decision.
 - (c)
 - (i) Except as provided in Subsection (1)(c)(ii), "tax, fee, or charge" means:
 - (A) a tax, fee, or charge the commission administers under:

- (I) this title;
 - (II) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
 - (III) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;
 - (IV) Section 19-6-410.5;
 - (V) Section 19-6-714;
 - (VI) Section 19-6-805;
 - (VII) Section 32B-2-304;
 - (VIII) Section 34A-2-202;
 - (IX) Section 40-6-14;
 - (X) Section 69-2-5;
 - (XI) Section 69-2-5.5; or
 - (XII) Section 69-2-5.6; or
 - (B) another amount that by statute is subject to interest imposed under this section.
- (ii) "Tax, fee, or charge" does not include a tax, fee, or charge imposed under:
- (A) Title 41, Chapter 1a, Motor Vehicle Act, except for Section 41-1a-301;
 - (B) Title 41, Chapter 3, Motor Vehicle Business Regulation Act;
 - (C) Chapter 2, Property Tax Act, except for Section 59-2-1309;
 - (D) Chapter 3, Tax Equivalent Property Act;
 - (E) Chapter 4, Privilege Tax; or
 - (F) Chapter 13, Part 5, Interstate Agreements.
- (2) Except as otherwise provided for by law, the interest rate for a calendar year for a tax, fee, or charge administered by the commission shall be calculated based on the federal short-term rate determined by the Secretary of the Treasury under Section 6621, Internal Revenue Code, in effect for the preceding fourth calendar quarter.
- (3) The interest rate calculation shall be as follows:
- (a) except as provided in Subsection (7), in the case of an overpayment or refund, simple interest shall be calculated at the rate of two percentage points above the federal short-term rate; or
 - (b) in the case of an underpayment, deficiency, or delinquency, simple interest shall be calculated at the rate of two percentage points above the federal short-term rate.
- (4) Notwithstanding Subsection (2) or (3), the interest rate applicable to certain installment sales for purposes of a tax under Chapter 7, Corporate Franchise and Income Taxes, shall be determined in accordance with Section 453A, Internal Revenue Code, as provided in Section 59-7-112.
- (5)
- (a) Except as provided in Subsection (5)(c), interest may not be allowed on an overpayment of a tax, fee, or charge if the overpayment of the tax, fee, or charge is refunded within:
 - (i) 45 days after the last date prescribed for filing the return with respect to a tax under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act, if the return is filed electronically; or
 - (ii) 90 days after the last date prescribed for filing the return:
 - (A) with respect to a tax, fee, or charge, except for a tax under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act; or
 - (B) if the return is not filed electronically.
 - (b) Except as provided in Subsection (5)(c), if the return is filed after the last date prescribed for filing the return, interest may not be allowed on the overpayment if the overpayment is refunded within:
 - (i) 45 days after the date the return is filed:

- (A) with respect to a tax under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act; and
- (B) if the return is filed electronically; or
- (ii) 90 days after the date the return is filed:
 - (A) with respect to a tax, fee, or charge, except for a tax under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act; or
 - (B) if the return is not filed electronically.
- (c)
 - (i) In the case of an amended return, interest on an overpayment shall be allowed:
 - (A) for a time period:
 - (I) that begins on the later of:
 - (Aa) the date the original return was filed; or
 - (Bb) the due date for filing the original return not including any extensions for filing the original return; and
 - (II) that ends on the date the commission receives the amended return; and
 - (B) if the commission does not make a refund of an overpayment under this Subsection (5)(c):
 - (I) if the amended return is with respect to a tax under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act, and is filed electronically, within a 45-day period after the date the commission receives the amended return, for a time period:
 - (Aa) that begins 46 days after the commission receives the amended return; and
 - (Bb) subject to Subsection (5)(c)(ii), that ends on the date that the commission completes processing the refund of the overpayment; or
 - (II) if the amended return is with respect to a tax, fee, or charge except for a tax under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act, or is not filed electronically, within a 90-day period after the date the commission receives the amended return, for a time period:
 - (Aa) that begins 91 days after the commission receives the amended return; and
 - (Bb) subject to Subsection (5)(c)(ii), that ends on the date that the commission completes processing the refund of the overpayment.
 - (ii) For purposes of Subsection (5)(c)(i)(B)(I)(Bb) or (5)(c)(i)(B)(II)(Bb), interest shall be calculated forward from the preparation date of the refund document to allow for processing.
 - (6) Interest on any underpayment, deficiency, or delinquency of a tax, fee, or charge shall be computed from the time the original return is due, excluding any filing or payment extensions, to the date the payment is received.
 - (7) Interest on a refund relating to a tax, fee, or charge may not be paid on any overpayment that arises from a statute that is determined to be invalid under state or federal law or declared unconstitutional under the constitution of the United States or Utah if the basis for the refund is the retroactive application of a judicial decision upholding the claim of unconstitutionality or the invalidation of a statute.

Amended by Chapter 357, 2012 General Session

59-1-403 Confidentiality -- Exceptions -- Penalty -- Application to property tax.

- (1)
 - (a) Any of the following may not divulge or make known in any manner any information gained by that person from any return filed with the commission:
 - (i) a tax commissioner;

- (ii) an agent, clerk, or other officer or employee of the commission; or
 - (iii) a representative, agent, clerk, or other officer or employee of any county, city, or town.
 - (b) An official charged with the custody of a return filed with the commission is not required to produce the return or evidence of anything contained in the return in any action or proceeding in any court, except:
 - (i) in accordance with judicial order;
 - (ii) on behalf of the commission in any action or proceeding under:
 - (A) this title; or
 - (B) other law under which persons are required to file returns with the commission;
 - (iii) on behalf of the commission in any action or proceeding to which the commission is a party; or
 - (iv) on behalf of any party to any action or proceeding under this title if the report or facts shown by the return are directly involved in the action or proceeding.
 - (c) Notwithstanding Subsection (1)(b), a court may require the production of, and may admit in evidence, any portion of a return or of the facts shown by the return, as are specifically pertinent to the action or proceeding.
- (2) This section does not prohibit:
- (a) a person or that person's duly authorized representative from receiving a copy of any return or report filed in connection with that person's own tax;
 - (b) the publication of statistics as long as the statistics are classified to prevent the identification of particular reports or returns; and
 - (c) the inspection by the attorney general or other legal representative of the state of the report or return of any taxpayer:
 - (i) who brings action to set aside or review a tax based on the report or return;
 - (ii) against whom an action or proceeding is contemplated or has been instituted under this title; or
 - (iii) against whom the state has an unsatisfied money judgment.
- (3)
- (a) Notwithstanding Subsection (1) and for purposes of administration, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for a reciprocal exchange of information with:
 - (i) the United States Internal Revenue Service; or
 - (ii) the revenue service of any other state.
 - (b) Notwithstanding Subsection (1) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, share information gathered from returns and other written statements with the federal government, any other state, any of the political subdivisions of another state, or any political subdivision of this state, except as limited by Sections 59-12-209 and 59-12-210, if the political subdivision, other state, or the federal government grant substantially similar privileges to this state.
 - (c) Notwithstanding Subsection (1) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for the issuance of information concerning the identity and other information of taxpayers who have failed to file tax returns or to pay any tax due.
 - (d) Notwithstanding Subsection (1), the commission shall provide to the director of the Division of Environmental Response and Remediation, as defined in Section 19-6-402, as requested by the director of the Division of Environmental Response and Remediation, any records, returns, or other information filed with the commission under Chapter 13, Motor and Special

Fuel Tax Act, or Section 19-6-410.5 regarding the environmental assurance program participation fee.

- (e) Notwithstanding Subsection (1), at the request of any person the commission shall provide that person sales and purchase volume data reported to the commission on a report, return, or other information filed with the commission under:
 - (i) Chapter 13, Part 2, Motor Fuel; or
 - (ii) Chapter 13, Part 4, Aviation Fuel.
- (f) Notwithstanding Subsection (1), upon request from a tobacco product manufacturer, as defined in Section 59-22-202, the commission shall report to the manufacturer:
 - (i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer and reported to the commission for the previous calendar year under Section 59-14-407; and
 - (ii) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer for which a tax refund was granted during the previous calendar year under Section 59-14-401 and reported to the commission under Subsection 59-14-401(1)(a)(v).
- (g) Notwithstanding Subsection (1), the commission shall notify manufacturers, distributors, wholesalers, and retail dealers of a tobacco product manufacturer that is prohibited from selling cigarettes to consumers within the state under Subsection 59-14-210(2).
- (h) Notwithstanding Subsection (1), the commission may:
 - (i) provide to the Division of Consumer Protection within the Department of Commerce and the attorney general data:
 - (A) reported to the commission under Section 59-14-212; or
 - (B) related to a violation under Section 59-14-211; and
 - (ii) upon request, provide to any person data reported to the commission under Subsections 59-14-212(1)(a) through (c) and Subsection 59-14-212(1)(g).
- (i) Notwithstanding Subsection (1), the commission shall, at the request of a committee of the Legislature, the Office of the Legislative Fiscal Analyst, or the Governor's Office of Management and Budget, provide to the committee or office the total amount of revenues collected by the commission under Chapter 24, Radioactive Waste Facility Tax Act, for the time period specified by the committee or office.
- (j) Notwithstanding Subsection (1), the commission shall make the directory required by Section 59-14-603 available for public inspection.
- (k) Notwithstanding Subsection (1), the commission may share information with federal, state, or local agencies as provided in Subsection 59-14-606(3).
- (l)
 - (i) Notwithstanding Subsection (1), the commission shall provide the Office of Recovery Services within the Department of Human Services any relevant information obtained from a return filed under Chapter 10, Individual Income Tax Act, regarding a taxpayer who has become obligated to the Office of Recovery Services.
 - (ii) The information described in Subsection (3)(l)(i) may be provided by the Office of Recovery Services to any other state's child support collection agency involved in enforcing that support obligation.
- (m)
 - (i) Notwithstanding Subsection (1), upon request from the state court administrator, the commission shall provide to the state court administrator, the name, address, telephone number, county of residence, and Social Security number on resident returns filed under Chapter 10, Individual Income Tax Act.

- (ii) The state court administrator may use the information described in Subsection (3)(m)(i) only as a source list for the master jury list described in Section 78B-1-106.
- (n) Notwithstanding Subsection (1), the commission shall at the request of a committee, commission, or task force of the Legislature provide to the committee, commission, or task force of the Legislature any information relating to a tax imposed under Chapter 9, Taxation of Admitted Insurers, relating to the study required by Section 59-9-101.
- (o)
 - (i) As used in this Subsection (3)(o), "office" means the:
 - (A) Office of the Legislative Fiscal Analyst; or
 - (B) Office of Legislative Research and General Counsel.
 - (ii) Notwithstanding Subsection (1) and except as provided in Subsection (3)(o)(iii), the commission shall at the request of an office provide to the office all information:
 - (A) gained by the commission; and
 - (B) required to be attached to or included in returns filed with the commission.
 - (iii)
 - (A) An office may not request and the commission may not provide to an office a person's:
 - (I) address;
 - (II) name;
 - (III) Social Security number; or
 - (IV) taxpayer identification number.
 - (B) The commission shall in all instances protect the privacy of a person as required by Subsection (3)(o)(iii)(A).
 - (iv) An office may provide information received from the commission in accordance with this Subsection (3)(o) only:
 - (A) as:
 - (I) a fiscal estimate;
 - (II) fiscal note information; or
 - (III) statistical information; and
 - (B) if the information is classified to prevent the identification of a particular return.
 - (v)
 - (A) A person may not request information from an office under Title 63G, Chapter 2, Government Records Access and Management Act, or this section, if that office received the information from the commission in accordance with this Subsection (3)(o).
 - (B) An office may not provide to a person that requests information in accordance with Subsection (3)(o)(v)(A) any information other than the information the office provides in accordance with Subsection (3)(o)(iv).
- (p) Notwithstanding Subsection (1), the commission may provide to the governing board of the agreement or a taxing official of another state, the District of Columbia, the United States, or a territory of the United States:
 - (i) the following relating to an agreement sales and use tax:
 - (A) information contained in a return filed with the commission;
 - (B) information contained in a report filed with the commission;
 - (C) a schedule related to Subsection (3)(p)(i)(A) or (B); or
 - (D) a document filed with the commission; or
 - (ii) a report of an audit or investigation made with respect to an agreement sales and use tax.
- (q) Notwithstanding Subsection (1), the commission may provide information concerning a taxpayer's state income tax return or state income tax withholding information to the Driver License Division if the Driver License Division:

- (i) requests the information; and
 - (ii) provides the commission with a signed release form from the taxpayer allowing the Driver License Division access to the information.
 - (r) Notwithstanding Subsection (1), the commission shall provide to the Utah Communications Authority, or a division of the Utah Communications Authority, the information requested by the authority under Sections 63H-7a-302, 63H-7a-402, and 63H-7a-502.
 - (s) Notwithstanding Subsection (1), the commission shall provide to the Utah Educational Savings Plan information related to a resident or nonresident individual's contribution to a Utah Educational Savings Plan account as designated on the resident or nonresident's individual income tax return as provided under Section 59-10-1313.
 - (t) Notwithstanding Subsection (1), for the purpose of verifying eligibility under Sections 26-18-2.5 and 26-40-105, the commission shall provide an eligibility worker with the Department of Health or its designee with the adjusted gross income of an individual if:
 - (i) an eligibility worker with the Department of Health or its designee requests the information from the commission; and
 - (ii) the eligibility worker has complied with the identity verification and consent provisions of Sections 26-18-2.5 and 26-40-105.
 - (u) Notwithstanding Subsection (1), the commission may provide to a county, as determined by the commission, information declared on an individual income tax return in accordance with Section 59-10-103.1 that relates to eligibility to claim a residential exemption authorized under Section 59-2-103.
- (4)
- (a) Each report and return shall be preserved for at least three years.
 - (b) After the three-year period provided in Subsection (4)(a) the commission may destroy a report or return.
- (5)
- (a) Any person who violates this section is guilty of a class A misdemeanor.
 - (b) If the person described in Subsection (5)(a) is an officer or employee of the state, the person shall be dismissed from office and be disqualified from holding public office in this state for a period of five years thereafter.
 - (c) Notwithstanding Subsection (5)(a) or (b), an office that requests information in accordance with Subsection (3)(o)(iii) or a person that requests information in accordance with Subsection (3)(o)(v):
 - (i) is not guilty of a class A misdemeanor; and
 - (ii) is not subject to:
 - (A) dismissal from office in accordance with Subsection (5)(b); or
 - (B) disqualification from holding public office in accordance with Subsection (5)(b).
- (6) Except as provided in Section 59-1-404, this part does not apply to the property tax.

Amended by Chapter 411, 2015 General Session

Amended by Chapter 451, 2015 General Session

59-1-404 Definitions -- Confidentiality of commercial information obtained from a property taxpayer or derived from the commercial information -- Rulemaking authority -- Exceptions -- Written explanation -- Signature requirements -- Retention of signed explanation by employer -- Penalty.

(1) As used in this section:

- (a) "Appraiser" means an individual who holds an appraiser's certificate or license issued by the Division of Real Estate under Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act and includes an individual associated with an appraiser who assists the appraiser in preparing an appraisal.
- (b) "Appraisal" is as defined in Section 61-2g-102.
- (c)
 - (i) "Commercial information" means:
 - (A) information of a commercial nature obtained from a property taxpayer regarding the property taxpayer's property; or
 - (B) information derived from the information described in this Subsection (1)(c)(i).
 - (ii)
 - (A) "Commercial information" does not include information regarding a property taxpayer's property if the information is intended for public use.
 - (B) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (1)(c)(ii)(A), the commission may by rule prescribe the circumstances under which information is intended for public use.
- (d) "Consultation service" is as defined in Section 61-2g-102.
- (e) "Locally assessed property" means property that is assessed by a county assessor in accordance with Chapter 2, Part 3, County Assessment.
- (f) "Property taxpayer" means a person that:
 - (i) is a property owner; or
 - (ii) has in effect a contract with a property owner to:
 - (A) make filings on behalf of the property owner;
 - (B) process appeals on behalf of the property owner; or
 - (C) pay a tax under Chapter 2, Property Tax Act, on the property owner's property.
- (g) "Property taxpayer's property" means property with respect to which a property taxpayer:
 - (i) owns the property;
 - (ii) makes filings relating to the property;
 - (iii) processes appeals relating to the property; or
 - (iv) pays a tax under Chapter 2, Property Tax Act, on the property.
- (h) "Protected commercial information" means commercial information that:
 - (i) identifies a specific property taxpayer; or
 - (ii) would reasonably lead to the identity of a specific property taxpayer.
- (2) An individual listed under Subsection 59-1-403(1)(a) may not disclose commercial information:
 - (a) obtained in the course of performing any duty that the individual listed under Subsection 59-1-403(1)(a) performs under Chapter 2, Property Tax Act; or
 - (b) relating to an action or proceeding:
 - (i) with respect to a tax imposed on property in accordance with Chapter 2, Property Tax Act; and
 - (ii) that is filed in accordance with:
 - (A) this chapter;
 - (B) Chapter 2, Property Tax Act; or
 - (C) this chapter and Chapter 2, Property Tax Act.
- (3)
 - (a) Notwithstanding Subsection (2) and subject to Subsection (3)(b), an individual listed under Subsection 59-1-403(1)(a) may disclose the following information:
 - (i) the assessed value of property;
 - (ii) the tax rate imposed on property;

- (iii) a legal description of property;
 - (iv) the physical description or characteristics of property, including a street address or parcel number for the property;
 - (v) the square footage or acreage of property;
 - (vi) the square footage of improvements on property;
 - (vii) the name of a property taxpayer;
 - (viii) the mailing address of a property taxpayer;
 - (ix) the amount of a property tax:
 - (A) assessed on property;
 - (B) due on property;
 - (C) collected on property;
 - (D) abated on property; or
 - (E) deferred on property;
 - (x) the amount of the following relating to property taxes due on property:
 - (A) interest;
 - (B) costs; or
 - (C) other charges;
 - (xi) the tax status of property, including:
 - (A) an exemption;
 - (B) a property classification;
 - (C) a bankruptcy filing; or
 - (D) whether the property is the subject of an action or proceeding under this title;
 - (xii) information relating to a tax sale of property; or
 - (xiii) information relating to single-family residential property.
- (b)
- (i) Subject to Subsection (3)(b)(ii), a person may receive the information described in Subsection (3)(a) in written format.
 - (ii) The following may charge a reasonable fee to cover the actual cost of providing the information described in Subsection (3)(a) in written format:
 - (A) the commission;
 - (B) a county;
 - (C) a city; or
 - (D) a town.
- (4)
- (a) Notwithstanding Subsection (2) and except as provided in Subsection (4)(c), an individual listed under Subsection 59-1-403(1)(a) shall disclose commercial information:
 - (i) in accordance with judicial order;
 - (ii) on behalf of the commission in any action or proceeding:
 - (A) under this title;
 - (B) under another law under which a property taxpayer is required to disclose commercial information; or
 - (C) to which the commission is a party;
 - (iii) on behalf of any party to any action or proceeding under this title if the commercial information is directly involved in the action or proceeding; or
 - (iv) if the requirements of Subsection (4)(b) are met, that is:
 - (A) relevant to an action or proceeding:
 - (I) filed in accordance with this title; and
 - (II) involving property; or

- (B) in preparation for an action or proceeding involving property.
- (b) Commercial information shall be disclosed in accordance with Subsection (4)(a)(iv):
 - (i) if the commercial information is obtained from:
 - (A) a real estate agent if the real estate agent is not a property taxpayer of the property that is the subject of the action or proceeding;
 - (B) an appraiser if the appraiser:
 - (I) is not a property taxpayer of the property that is the subject of the action or proceeding; and
 - (II) did not receive the commercial information pursuant to Subsection (8);
 - (C) a property manager if the property manager is not a property taxpayer of the property that is the subject of the action or proceeding; or
 - (D) a property taxpayer other than a property taxpayer of the property that is the subject of the action or proceeding;
 - (ii) regardless of whether the commercial information is disclosed in more than one action or proceeding; and
 - (iii)
 - (A) if a county board of equalization conducts the action or proceeding, the county board of equalization takes action to provide that any commercial information disclosed during the action or proceeding may not be disclosed by any person conducting or participating in the action or proceeding except as specifically allowed by this section;
 - (B) if the commission conducts the action or proceeding, the commission enters a protective order or, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, makes rules specifying that any commercial information disclosed during the action or proceeding may not be disclosed by any person conducting or participating in the action or proceeding except as specifically allowed by this section; or
 - (C) if a court of competent jurisdiction conducts the action or proceeding, the court enters a protective order specifying that any commercial information disclosed during the action or proceeding may not be disclosed by any person conducting or participating in the action or proceeding except as specifically allowed by this section.
- (c) Notwithstanding Subsection (4)(a), a court may require the production of, and may admit in evidence, commercial information that is specifically pertinent to the action or proceeding.
- (5) Notwithstanding Subsection (2), this section does not prohibit:
 - (a) the following from receiving a copy of any commercial information relating to the basis for assessing a tax that is charged to a property taxpayer:
 - (i) the property taxpayer;
 - (ii) a duly authorized representative of the property taxpayer;
 - (iii) a person that has in effect a contract with the property taxpayer to:
 - (A) make filings on behalf of the property taxpayer;
 - (B) process appeals on behalf of the property taxpayer; or
 - (C) pay a tax under Chapter 2, Property Tax Act, on the property taxpayer's property;
 - (iv) a property taxpayer that purchases property from another property taxpayer; or
 - (v) a person that the property taxpayer designates in writing as being authorized to receive the commercial information;
 - (b) the publication of statistics as long as the statistics are classified to prevent the identification of a particular property taxpayer's commercial information; or
 - (c) the inspection by the attorney general or other legal representative of the state or a legal representative of a political subdivision of the state of the commercial information of a property taxpayer:

- (i) that brings action to set aside or review a tax or property valuation based on the commercial information;
 - (ii) against which an action or proceeding is contemplated or has been instituted under this title; or
 - (iii) against which the state or a political subdivision of the state has an unsatisfied money judgment.
- (6) Notwithstanding Subsection (2), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule establish standards authorizing an individual listed under Subsection 59-1-403(1)(a) to disclose commercial information:
 - (a)
 - (i) in a published decision; or
 - (ii) in carrying out official duties; and
 - (b) if that individual listed under Subsection 59-1-403(1)(a) consults with the property taxpayer that provided the commercial information.
- (7) Notwithstanding Subsection (2):
 - (a) an individual listed under Subsection 59-1-403(1)(a) may share commercial information with the following:
 - (i) another individual listed in Subsection 59-1-403(1)(a)(i) or (ii); or
 - (ii) a representative, agent, clerk, or other officer or employee of a county as required to fulfill an obligation created by Chapter 2, Property Tax Act;
 - (b) an individual listed under Subsection 59-1-403(1)(a) may perform the following to fulfill an obligation created by Chapter 2, Property Tax Act:
 - (i) publish notice;
 - (ii) provide notice; or
 - (iii) file a lien; or
 - (c) the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, share commercial information gathered from returns and other written statements with the federal government, any other state, any of the political subdivisions of another state, or any political subdivision of this state, if these political subdivisions or the federal government grant substantially similar privileges to this state.
- (8) Notwithstanding Subsection (2):
 - (a) subject to the limitations in this section, an individual described in Subsection 59-1-403(1)(a) may share the following commercial information with an appraiser:
 - (i) the sales price of locally assessed property and the related financing terms;
 - (ii) capitalization rates and related rates and ratios related to the valuation of locally assessed property; and
 - (iii) income and expense information related to the valuation of locally assessed property; and
 - (b) except as provided in Subsection (4), an appraiser who receives commercial information:
 - (i) may disclose the commercial information:
 - (A) to an individual described in Subsection 59-1-403(1)(a);
 - (B) to an appraiser;
 - (C) in an appraisal if protected commercial information is removed to protect its confidential nature; or
 - (D) in performing a consultation service if protected commercial information is not disclosed; and
 - (ii) may not use the commercial information:
 - (A) for a purpose other than to prepare an appraisal or perform a consultation service; or

(B) for a purpose intended to be, or which could reasonably be foreseen to be, anti-competitive to a property taxpayer.

(9)

(a) The commission shall:

- (i) prepare a written explanation of this section; and
- (ii) make the written explanation described in Subsection (9)(a)(i) available to the public.

(b) An employer of a person described in Subsection 59-1-403(1)(a) shall:

- (i) provide the written explanation described in Subsection (9)(a)(i) to each person described in Subsection 59-1-403(1)(a) who is reasonably likely to receive commercial information;
- (ii) require each person who receives a written explanation in accordance with Subsection (9)(b)(i) to:

- (A) read the written explanation; and
- (B) sign the written explanation; and

(iii) retain each written explanation that is signed in accordance with Subsection (9)(b)(ii) for a time period:

- (A) beginning on the day on which a person signs the written explanation in accordance with Subsection (9)(b)(ii); and
- (B) ending six years after the day on which the employment of the person described in Subsection (9)(b)(iii)(A) by the employer terminates.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall by rule define "employer."

(10)

(a) An individual described in Subsection (1)(a) or 59-1-403(1)(a), or an individual that violates a protective order or similar limitation entered pursuant to Subsection (4)(b)(iii), is guilty of a class A misdemeanor if that person:

- (i) intentionally discloses commercial information in violation of this section; and
- (ii) knows that the disclosure described in Subsection (10)(a)(i) is prohibited by this section.

(b) If the individual described in Subsection (10)(a) is an officer or employee of the state or a county and is convicted of violating this section, the individual shall be dismissed from office and be disqualified from holding public office in this state for a period of five years thereafter.

(c) If the individual described in Subsection (10)(a) is an appraiser, the appraiser shall forfeit any certification or license received under Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act, for a period of five years.

(d) If the individual described in Subsection (10)(a) is an individual associated with an appraiser who assists the appraiser in preparing appraisals, the individual shall be prohibited from becoming licensed or certified under Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act, for a period of five years.

Amended by Chapter 289, 2011 General Session

59-1-405 Commission consideration of confidential tax matters.

(1) As used in this section, "confidential tax matter" means:

- (a) an offer in compromise;
- (b) a private letter ruling;
- (c) an appeal before the members of the commission;
- (d) a tax matter if the disclosure of the tax matter is prohibited under:
 - (i) federal law;
 - (ii) Section 59-1-403; or

- (iii) Section 59-1-404;
 - (e) a voluntary disclosure agreement; or
 - (f) a waiver request.
- (2) Notwithstanding Title 52, Chapter 4, Open and Public Meetings Act, the commission may hold a meeting that is not open to the public to conduct a hearing on, discuss, or take action on a confidential tax matter in accordance with the rules established as provided under this section.
- (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:
- (a) to establish procedures for holding a meeting that is not open to the public to conduct a hearing on, discuss, or take action on a confidential tax matter; and
 - (b) except as provided in Subsection (4), to establish procedures and requirements for keeping confidential minutes and a confidential recording of a meeting that is not open to the public.
- (4) For purposes of Subsection (3)(b), the commission is not required to make rules to establish procedures and requirements for keeping confidential minutes and a confidential recording of:
- (a) an initial hearing to the extent provided in Section 59-1-502.5; or
 - (b) private analysis, contemplation, and discussion by members of the commission:
 - (i) in performing the judicial aspects of their duties; and
 - (ii) consistent with state case law.

Enacted by Chapter 215, 2011 General Session

Part 5

Petitions for Redetermination of Deficiencies

59-1-501 Procedure for obtaining redetermination of a deficiency -- Claim for refund.

- (1) As used in this section:
- (a) "Legal holiday" is as defined in Section 59-10-518.
 - (b) "Tax, fee, or charge" is as defined in Section 59-1-1402.
- (2) A person may file a request for agency action, petitioning the commission for redetermination of a deficiency.
- (3) Subject to Subsections (4) through (6), a person shall file the request for agency action described in Subsection (2):
- (a) within a 30-day period after the date the commission mails a notice of deficiency to the person in accordance with Section 59-1-1405; or
 - (b) within a 90-day period after the date the commission mails a notice of deficiency to the person in accordance with Section 59-1-1405 if the notice of deficiency is addressed to a person outside the United States or the District of Columbia.
- (4) If the last day of a time period described in Subsection (3) is a Saturday, Sunday, or legal holiday, the last day for a person to file a request for agency action is the next day that is not a Saturday, Sunday, or legal holiday.
- (5) A person that mails a request for agency action shall mail the request for agency action in accordance with Section 59-1-1404.
- (6) For purposes of Subsection (3), a person is considered to have filed a request for agency action:
- (a) if the person mails the request for agency action, on the date the person is considered to have mailed the request for agency action in accordance with Section 59-1-1404; or

- (b) if the person delivers the request for agency action to the commission by a method other than mail, on the date the commission receives the request for agency action.
- (7) A person who has not previously filed a timely request for agency action in accordance with Subsection (3) may object to a final assessment issued by the commission by:
 - (a) paying the tax, fee, or charge; and
 - (b) filing a claim for a refund as provided in Section 59-1-1410.

Amended by Chapter 212, 2009 General Session

59-1-502.5 Initial hearing.

- (1) At least 30 days before any formal hearing is held in response to a party's request for agency action, an initial hearing shall be held before one or more tax commissioners or an administrative law judge designated by the commission at which proffers of evidence, including testimony, documents, and other exhibits may be made and oral or written argument on legal issues may be received.
- (2) Any party participating in an initial hearing shall have the right to informal discovery under any rules established by the commission.
- (3) Parties may appear at the initial hearing in person or through agents, employees, or other representatives, but any person appearing on behalf of another party or entity shall have full settlement authority on behalf of the party the person is representing.
- (4) A record may not be kept of the initial hearing and all initial hearing proceedings are privileged and do not constitute admissions against interest of any party participating in the hearing.
- (5) At the initial hearing, or as soon thereafter as reasonably practicable, the commission may take any action it deems appropriate to settle, compromise, or reduce the deficiency, or adjust the assessed valuation of any property.
- (6) Nothing in this section may limit a party's right to a formal hearing under Title 63G, Chapter 4, Administrative Procedures Act.

Amended by Chapter 382, 2008 General Session

59-1-503 Assessment and payment of deficiency.

- (1) Following a redetermination of a deficiency by the commission, the entire amount redetermined as the deficiency by the decision of the commission, which has become final, shall be assessed and shall be paid within 30 days from the date the notice and demand is sent from the commission.
- (2) If the taxpayer does not file a petition with the commission within the time prescribed for filing the petition, the deficiency, notice of which has been sent to the taxpayer, shall be assessed, and shall be paid within 30 days from the date the notice and demand is sent from the commission.

Amended by Chapter 9, 2001 General Session

59-1-504 Time determination final.

The action of the commission on the taxpayer's petition for redetermination of deficiency shall be final 30 days after the date the commission's notice of agency action is sent. All tax, interest, and penalties are due 30 days from the date the commission's decision or order is sent, unless the taxpayer seeks judicial review.

Amended by Chapter 86, 2000 General Session

Part 6

Judicial Review

59-1-601 District court jurisdiction.

- (1) In addition to the jurisdiction granted in Section 63G-4-402, beginning July 1, 1994, the district court shall have jurisdiction to review by trial de novo all decisions issued by the commission after that date resulting from formal adjudicative proceedings.
- (2) As used in this section, "trial de novo" means an original, independent proceeding, and does not mean a trial de novo on the record.
- (3)
 - (a) In any appeal to the district court pursuant to this section taken after January 1, 1997, the commission shall certify a record of its proceedings to the district court.
 - (b) This Subsection (3) supercedes Section 63G-4-403 pertaining to judicial review of formal adjudicative proceedings.

Amended by Chapter 382, 2008 General Session

59-1-602 Right to appeal -- Venue -- County as party in interest.

- (1)
 - (a) Any aggrieved party appearing before the commission or county whose tax revenues are affected by the decision may at that party's option petition for judicial review in the district court pursuant to this section, or in the Supreme Court or the Court of Appeals pursuant to Section 59-1-610.
 - (b) Judicial review of formal or informal adjudicative proceedings in the district is in the district court located in the county of residence or principal place of business of the affected taxpayer or, in the case of a taxpayer whose taxes are assessed on a statewide basis, to the Third Judicial District Court in and for Salt Lake County.
 - (c) Notwithstanding Section 63G-4-402, a petition for review made to the district court under this section shall conform to the Utah Rules of Appellate Procedure.
- (2) A county whose tax revenues are affected by the decision being reviewed shall be allowed to be a party in interest in the proceeding before the court.

Amended by Chapter 382, 2008 General Session

59-1-604 Burden of proof -- Decision of court.

In proceedings of the district court under this part and on appeal therefrom, a preponderance of the evidence shall suffice to sustain the burden of proof. The burden of proof shall fall upon the parties seeking affirmative relief and the burden of going forward with the evidence shall shift as in other civil litigation. The district court shall render its decision in writing, including therein a concise statement of the facts found by the court and the conclusions of law reached by the court. The court may affirm, reverse, modify, or remand any order of the commission, and shall grant other relief, invoke such other remedies, and issue such orders, in accordance with its decision, as appropriate.

Amended by Chapter 326, 1998 General Session

59-1-607 Decision of district court as final determination.

Unless stayed, the decision of the district court shall be binding upon all parties until changed upon appeal. If no appeal is taken, the decision of the court shall constitute a final determination of the matter.

Amended by Chapter 127, 1992 General Session

59-1-608 Appeal.

The exclusive remedy for review of a decision or order of the district court entered under this part shall be by appeal. Any party to the action has the right to an appeal.

Amended by Chapter 127, 1992 General Session

59-1-610 Standard of review of appellate court.

- (1) When reviewing formal adjudicative proceedings commenced before the commission, the Court of Appeals or Supreme Court shall:
 - (a) grant the commission deference concerning its written findings of fact, applying a substantial evidence standard on review; and
 - (b) grant the commission no deference concerning its conclusions of law, applying a correction of error standard, unless there is an explicit grant of discretion contained in a statute at issue before the appellate court.
- (2) This section supercedes Section 63G-4-403 pertaining to judicial review of formal adjudicative proceedings.

Amended by Chapter 382, 2008 General Session

59-1-611 Requirement to post security -- Waiver -- Payment of tax, interest, or penalties after judicial decision -- Interest.

- (1) As used in this section, "post security" means:
 - (a) posting with the commission, for the full or a partial amount of the deficiency as determined by the commission:
 - (i) a letter of credit;
 - (ii) a bond; or
 - (iii) other similar financial instrument acceptable to the commission; or
 - (b) as determined by the commission, depositing with the commission:
 - (i) the full amount of the deficiency; or
 - (ii) a partial amount of the deficiency.
- (2) Except as provided in Subsection (3), a taxpayer that seeks judicial review of a final commission redetermination of a deficiency shall post security with the commission.
- (3) The commission shall waive the requirements of Subsection (2) if a taxpayer establishes:
 - (a) that the taxpayer has sufficient financial resources to pay the deficiency if the deficiency is upheld in a final unappealable judgment or order by a court of competent jurisdiction; or
 - (b) as determined by the commission, that collection of the deficiency that is the subject of the appeal is not jeopardized by waiving the requirements of Subsection (2).
- (4)
 - (a) The commission may not unreasonably deny a waiver described in Subsection (3).

- (b) A taxpayer may seek judicial review of the commission's decision to deny a waiver under Subsection (3) by the court reviewing the redetermination of the deficiency.
- (5) If a taxpayer fails to comply with the requirements of Subsection (2), the reviewing court may, in its discretion, dismiss the taxpayer's appeal of the redetermination of the deficiency.
- (6) If the commission grants a waiver under Subsection (3), the taxpayer shall pay any tax, interest, or penalties:
 - (a) ordered by a court of competent jurisdiction; and
 - (b) within a 30-day period beginning on the day on which the order described in Subsection (6)(a) becomes final.
- (7) If a taxpayer posts security with the commission, or the commission grants a waiver in accordance with this section, interest shall accrue on the unpaid taxes that are the subject of the deficiency at the rate and in the manner provided in Section 59-1-402.

Amended by Chapter 224, 2013 General Session

Part 7

Termination and Jeopardy Assessments Procedure

59-1-701 Grounds for termination and jeopardy assessment -- Notice -- Collection -- Reopening period -- Bond.

- (1) If the commission finds that a taxpayer intends quickly to depart from this state or to remove his property therefrom, or to conceal himself or his property therein, or to do any other act (including in the case of a taxpayer selling or otherwise distributing all or a part of its assets in liquidation or otherwise) tending to prejudice or to render wholly or partially ineffectual proceedings to collect any tax or penalty in lieu of tax for the current or the preceding taxable period, unless such proceedings be brought without delay, the commission may declare the taxable period for such taxpayer immediately terminated whether or not the time otherwise allowed by law for filing returns and paying the liability has expired. The commission shall immediately make a determination of tax for the current taxable period or for the preceding period, or both, and notwithstanding any other provision of law, the tax shall become immediately due and payable. The commission shall immediately assess the amount of the tax so determined (together with all interest, penalties, additional amounts, and additions to the tax provided by law) for the current taxable period or such preceding taxable period, or both, and shall give the notice of determination and assessment to the taxpayer, together with a demand for immediate payment of the tax.
- (2) In the case of a current taxable period, the commission shall determine the tax for the period beginning on the first day of the current taxable period and ending on the date of the determination under Subsection (1) as though the period were a taxable period of the taxpayer. The commission shall take into account any prior determination made under this subsection with respect to such current taxable period. Any amounts collected as a result of any assessments under this subsection shall be treated as a partial payment of tax for the taxable period.
- (3) Notwithstanding the termination of the taxable period of the taxpayer as provided in Subsection (1), the commission may reopen such taxable period each time the taxpayer is found by the commission to have incurred additional liabilities, within the current taxable period, since the termination of such period. A taxable period so terminated by the commission may be

reopened by the taxpayer if he files a true and accurate return, as required under Title 59, Chapter 2, Property Tax Act, Chapter 7, Corporate Franchise and Income Taxes, Chapter 10, Individual Income Tax Act, or Chapter 12, Sales and Use Tax Act, for the taxable period, together with such other information as the commission may by rule prescribe.

- (4) Payment of taxes may not be enforced by any proceedings under Subsection (1) prior to the expiration of the time otherwise allowed for paying such taxes if the taxpayer furnishes, under rules prescribed by the commission, a bond to ensure the timely making of returns with respect to, and payment of, the taxes, penalties, or interest for prior periods.

Renumbered and Amended by Chapter 3, 1987 General Session

59-1-702 Jeopardy assessment -- Notice -- Amount.

- (1) If the commission believes that the assessment or collection of any tax or penalty in lieu of tax will be jeopardized by delay, it shall, notwithstanding the assessment provisions of Title 59, Chapter 2, Property Tax Act, Chapter 7, Corporate Franchise and Income Taxes, Chapter 10, Individual Income Tax Act, or Chapter 12, Sales and Use Tax Act, immediately assess such tax or penalty in lieu of tax (together with all interest, penalties, and additions to tax provided for by law), and notice and demand shall be made by the commission for the payment thereof.
- (2) If the jeopardy assessment is made before any notice of the tax deficiency to which the jeopardy assessment relates has been mailed under Title 59, Chapter 2, Property Tax Act, Chapter 7, Corporate Franchise and Income Taxes, Chapter 10, Individual Income Tax Act, or Chapter 12, Sales and Use Tax Act, then the commission shall mail a notice under this section within 60 days after the making of the assessment.
- (3) The jeopardy assessment may be made of a deficiency greater or less than that set forth in the notice of deficiency, which has been mailed to the taxpayer, and whether or not the taxpayer has filed a petition with the commission. The commission may, at any time before rendering its decision, abate such assessment, or any unpaid portion thereof, to the extent that it believes the assessment to be excessive in amount. The commission has jurisdiction to redetermine the entire amount of the deficiency and of all amounts assessed.
- (4) If the jeopardy assessment is made after the commission has rendered a decision on a taxpayer's petition for redetermination, the assessment may be made only in respect to the amount of the deficiency determined by the commission in its decision.

Renumbered and Amended by Chapter 3, 1987 General Session

59-1-703 Collection procedure -- Review -- Bond for stay -- Sale of seized property.

- (1)
 - (a) If an amount that is due and payable under Sections 59-1-701 and 59-1-702 is not paid, the commission shall collect that amount in accordance with Part 14, Assessment, Collections, and Refunds Act.
 - (b)
 - (i) For purposes of collecting an amount described in Subsection (1)(a), the commission may issue a warrant.
 - (ii) The commission may direct the warrant described in Subsection (1)(b)(i) to an authorized representative of the commission.
 - (iii) In executing the warrant described in Subsection (1)(b)(i), the authorized representative described in Subsection (1)(b)(ii):
 - (A) has all of the powers conferred by law upon a sheriff; and

(B) may not collect a fee or other compensation for executing the warrant other than the actual expenses paid to execute the warrant.

- (2)
 - (a) The appropriateness of a termination or jeopardy assessment shall be reviewable under procedures prescribed by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
 - (b) The amount of a termination or jeopardy assessment is reviewable only in the manner prescribed in Chapter 1, Part 5, Petitions for Redetermination of Deficiencies, and Part 6, Judicial Review.
- (3) In a proceeding brought to enforce payment of a liability made due and payable under this section, Section 59-1-701, or 59-1-702, the finding of the commission, whether made after notice to the taxpayer or not, is presumptive evidence of jeopardy.
- (4)
 - (a) After a petition is filed with the commission and when the amount that the commission determines to be assessable becomes final, any unpaid portion that is stayed by bond shall be collected as part of the tax upon notice and demand from the commission.
 - (b) A portion remaining after the commission collects the amount determined to be assessable under Subsection (4)(a) shall be abated.
 - (c) If the amount the commission collects in accordance with Subsection (4)(a) exceeds the amount that should have been assessed, the excess shall be credited or refunded to the taxpayer.
 - (d) If the amount the commission determines to be assessable in accordance with Subsection (4)(a) is greater than the amount actually assessed, the difference shall be assessed, and collected as part of the tax, upon notice and demand by the commission.
- (5)
 - (a) The commission may abate a jeopardy assessment if the commission finds that jeopardy does not exist.
 - (b) An abatement described in Subsection (5)(a) may not be made after a decision of the commission in respect of the deficiency is rendered or, if no petition is filed with the commission, after the expiration of the period for filing a petition.
 - (c) The period of limitation on making an assessment or levy or a proceeding for collection, in respect of a deficiency, shall be determined as if the commission had not abated the jeopardy assessment under Subsection (5)(a).
 - (d) The running of the period of limitation on making an assessment or levy or a proceeding for collection shall be suspended from the date of a jeopardy assessment until the expiration of the 10th day after the jeopardy assessment is abated under this Subsection (5).
- (6)
 - (a) The collection of all or a part of a jeopardy assessment may be stayed by posting a bond with the commission in the amount and under conditions established by the commission.
 - (b) A taxpayer may waive a stay described in Subsection (6)(a) at any time in respect of all or part of the amount covered by the bond.
 - (c) If, as a result of a waiver described in Subsection (6)(b), any part of the amount covered by the bond is paid, the commission shall proportionately reduce the bond at the request of the taxpayer that waives the stay in accordance with Subsection (6)(b).
 - (d) If any portion of a jeopardy assessment is abated, or if a notice of deficiency is mailed to a taxpayer in a lesser amount, the bond shall, at the request of the taxpayer, be proportionately reduced.

(7)

- (a) If a bond is posted before a taxpayer files a petition for redetermination of a deficiency under Section 59-1-501, the bond shall contain a condition that the amount of the deficiency assessment, the collection of which is stayed by the bond, shall be paid on notice and demand at any time after the expiration of the stay, together with interest on the deficiency assessment, beginning on the date of the jeopardy notice and demand and ending on the date of notice and demand under this Subsection (7)(a).
 - (b) A bond described in Subsection (7)(a) shall be conditioned upon the payment of that part of the assessment, collection of which is stayed by the bond, that is:
 - (i) not abated by a decision of the commission; and
 - (ii) final.
 - (c) If the commission determines that the amount of a deficiency assessed is greater than the amount that should have been assessed, the bond shall be proportionately reduced:
 - (i) at the time the decision of the commission is rendered; and
 - (ii) at the request of the taxpayer that posts the bond.
- (8)
- (a) If a jeopardy assessment is made under this section, property seized for the collection of a tax may not be sold until:
 - (i) the commission issues a notice of deficiency; and
 - (ii) the time for filing a petition for redetermination expires.
 - (b) Except as provided in Subsection (8)(c), if a taxpayer files a petition for redetermination, regardless of whether the taxpayer files the petition for redetermination before or after the commission makes the jeopardy assessment, the property described in Subsection (8)(a) may not be sold until the commission's decision on the petition is final.
 - (c) For purposes of Subsection (8)(b), the property described in Subsection (8)(a) may be sold if:
 - (i) the taxpayer consents to the sale;
 - (ii) the commission determines that the expenses of conservation and maintenance of the property would greatly reduce the net proceeds of the sale; or
 - (iii) the property is perishable.

Amended by Chapter 212, 2009 General Session

59-1-704 Restraint of collection restricted.

- (1) Except as otherwise provided in Chapter 1, Part 5, Petitions for Redetermination of Deficiencies, Part 6, Judicial Review, and Part 7, Termination and Jeopardy Assessments Procedure and Chapter 2, Property Tax Act, Chapter 6, Mineral Production Tax Withholding, Chapter 7, Corporate Franchise and Income Taxes, Chapter 10, Individual Income Tax Act, and Chapter 12, Sales and Use Tax Act and the rules promulgated thereunder, no suit for the purpose of restraining the assessment or collection of any tax, penalty, or interest imposed under Chapter 1, General Taxation Policies, Chapter 2, Property Tax Act, Chapter 6, Mineral Production Tax Withholding, Chapter 7, Corporate Franchise and Income Taxes, Chapter 10, Individual Income Tax Act, or Chapter 12, Sales and Use Tax Act may be maintained in any court by any person, whether or not such person is the person against whom such tax was assessed.
- (2) No suit may be maintained in any court for the purpose of restraining the assessment or collection of the amount of the state tax liability of a transferee or of a fiduciary of property of a taxpayer.

Amended by Chapter 9, 2001 General Session

59-1-705 Payment and collection of penalties, interest, and other liabilities.

The penalties, interest, and other liabilities imposed by the provisions of Title 59, Revenue and Taxation, shall be paid by the taxpayer upon notice and demand by the commission, and shall be assessed and collected in the same manner as taxes. Except as otherwise provided, any reference in Title 59, Revenue and Taxation, to "tax" includes penalties, interest, and other liabilities.

Renumbered and Amended by Chapter 3, 1987 General Session

59-1-707 Writ of mandate requiring taxpayer to file return.

- (1)
- (a) If a taxpayer fails to file any return required pursuant to Title 59, Revenue and Taxation, within 60 days of the time prescribed, the commission may petition for a writ of mandate to compel the taxpayer to file the return. The petition may be filed, in the discretion of the commission, in the Tax Division of the Third Judicial District or in the district court for the county in which the taxpayer resides or has his principal place of business. In the case of a nonresident taxpayer the petition shall be filed in the Third District Court.
 - (b) The court shall grant a hearing on the petition for a writ of mandate within 20 days after the filing of the petition or as soon thereafter as the court may determine, having regard for the rights of the parties and the necessity of a speedy determination of the petition.
 - (c) Upon a finding of failure to file a return within 60 days of the time prescribed pursuant to Title 59, Revenue and Taxation, the court shall issue a writ of mandate requiring the taxpayer to file a return. The order of the court shall include an award of attorneys' fees, court costs, witness fees, and all other costs in favor of the prevailing party.
- (2) Nothing in this section shall limit the remedies otherwise available to the commission under Title 59, Revenue and Taxation, or other laws of this state.

Renumbered and Amended by Chapter 3, 1987 General Session

Part 8
Multistate Tax Compact

59-1-801.5 Purpose of compact -- Definitions -- Elements of sales and use tax laws -- The Multistate Tax Commission -- Uniform regulations and forms -- Interstate audits -- Entry into force and withdrawal -- Effect on other laws and jurisdiction -- Construction and severability.

The "Multistate Tax Compact" is hereby enacted into law and entered into with all jurisdictions legally joining therein, in the form substantially as follows:

ARTICLE I. PURPOSES

The purposes of this compact are to:

- 1. Facilitate proper determination of state and local tax liability of multistate taxpayers.
- 2. Promote uniformity or compatibility in significant components of tax systems.
- 3. Facilitate taxpayer convenience and compliance in the filing of tax returns and in other phases of tax administration.
- 4. Avoid duplicative taxation.

ARTICLE II. DEFINITIONS

As used in this compact:

1. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.
2. "Subdivision" means any governmental unit or special district of a state.
3. "Taxpayer" means any corporation, partnership, firm, association, governmental unit or agency, or person acting as a business entity in more than one state.
4. "Income tax" means a tax imposed on or measured by net income including any tax imposed on or measured by an amount arrived at by deducting expenses from gross income, one or more forms of which expenses are not specifically and directly related to particular transactions.
5. "Capital stock tax" means a tax measured in any way by the capital of a corporation considered in its entirety.
6. "Gross receipts tax" means a tax, other than a sales tax, which is imposed on or measured by the gross volume of business, in terms of gross receipts or in other terms, and in the determination of which no deduction is allowed which would constitute the tax an income tax.
7. "Sales tax" means a tax imposed with respect to the transfer for a consideration of ownership, possession, or custody of tangible personal property or the rendering of services measured by the price of the tangible personal property transferred or services rendered and which is required by state or local law to be separately stated from the sales price by the seller, or which is customarily separately stated from the sales price, but does not include a tax imposed exclusively on the sale of a specifically identified commodity or article or class of commodities or articles.
8. "Use tax" means a nonrecurring tax, other than a sales tax, which (a) is imposed on or with respect to the exercise or enjoyment of any right or power over tangible personal property incident to the ownership, possession, or custody of that property or the leasing of that property from another including any consumption, keeping, retention, or other use of tangible personal property, and (b) is complementary to a sales tax.
9. "Tax" means an income tax, capital stock tax, gross receipts tax, sales tax, use tax, and any other tax which has a multistate impact, except that the provisions of Article V of this compact shall apply only to the taxes specifically designated therein.

ARTICLE III. ELEMENTS OF INCOME TAX LAWS (intentionally omitted)

ARTICLE IV. DIVISION OF INCOME (intentionally omitted)

ARTICLE V. ELEMENTS OF SALES AND USE TAX LAWS

Tax Credit

1. Each purchaser liable for a use tax on tangible personal property shall be entitled to full credit for the combined amount or amounts of legally imposed sales or use taxes paid by him with respect to the same property to another state and any subdivision thereof. The credit shall be applied first against the amount of any use tax due the state, and any unused portion of the credit shall then be applied against the amount of any use tax due a subdivision.

Exemption Certificates, Vendors May Rely

2. Whenever a vendor receives and accepts in good faith from a purchaser a resale or other exemption certificate or other written evidence of exemption authorized by the appropriate state or subdivision taxing authority, the vendor shall be relieved of liability for a sales or use tax with respect to the transaction.

ARTICLE VI. THE COMMISSION

Organization and Management

1. (a) The Multistate Tax Commission is hereby established. It shall be composed of one "member" from each party state who shall be the head of the state agency charged with the

administration of the types of taxes to which this compact applies. If there is more than one such agency the state shall provide by law for the selection of the commission member from the heads of the relevant agencies. State law may provide that a member of the commission be represented by an alternate but only if there is on file with the commission written notification of the designation and identity of the alternate. The attorney general of each party state or his designee, or other counsel if the laws of the party state specifically provide, shall be entitled to attend the meetings of the commission, but shall not vote. Such attorneys general, designees, or other counsel shall receive all notices of meetings required under paragraph 1(e) of this article.

(b) Each party state shall provide by law for the selection of representatives from its subdivisions affected by this compact to consult with the commission member from that state.

(c) Each member shall be entitled to one vote. The commission shall not act unless a majority of the members are present, and no action shall be binding unless approved by a majority of the total number of members.

(d) The commission shall adopt an official seal to be used as it may provide.

(e) The commission shall hold an annual meeting and such other regular meetings as its bylaws may provide and such special meetings as its executive committee may determine. The commission bylaws shall specify the dates of the annual and any other regular meetings, and shall provide for the giving of notice of annual, regular, and special meetings. Notices of special meetings shall include the reasons therefor and an agenda of the items to be considered.

(f) The commission shall elect annually, from among its members, a chairman, a vice-chairman, and a treasurer. The commission shall appoint an executive director who shall serve at its pleasure, and it shall fix his duties and compensation. The executive director shall be secretary of the commission. The commission shall make provision for the bonding of such of its officers and employees as it may deem appropriate.

(g) Irrespective of the civil service, personnel, or other merit system laws of any party state, the executive director shall appoint or discharge such personnel as may be necessary for the performance of the functions of the commission and shall fix their duties and compensation. The commission bylaws shall provide for personnel policies and programs.

(h) The commission may borrow, accept, or contract for the services of personnel from any state, the United States, or any other governmental entity.

(i) The commission may accept for any of its purposes and functions any and all donations and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from any governmental entity, and may utilize and dispose of the same.

(j) The commission may establish one or more offices for the transacting of its business.

(k) The commission shall adopt bylaws for the conduct of its business. The commission shall publish its bylaws in convenient form, and shall file a copy of the bylaws and any amendments thereto with the appropriate agency or officer in each of the party states.

(l) The commission annually shall make to the governor and legislature of each party state a report covering its activities for the preceding year. Any donation or grant accepted by the commission or services borrowed shall be reported in the annual report of the commission, and shall include the nature, amount, and conditions, if any, of the donation, gift, grant, or services borrowed and the identity of the donor or lender. The commission may make additional reports as it may deem desirable.

Committees

2. (a) To assist in the conduct of its business when the full commission is not meeting, the commission shall have an executive committee of seven members, including the chairman, vice-chairman, treasurer, and four other members elected annually by the commission. The

executive committee, subject to the provisions of this compact and consistent with the policies of the commission, shall function as provided in the bylaws of the commission.

(b) The commission may establish advisory and technical committees, membership on which may include private persons and public officials, in furthering any of its activities. Such committees may consider any matter of concern to the commission, including problems of special interest to any party state and problems dealing with particular types of taxes.

(c) The commission may establish such additional committees as its bylaws may provide.

Powers

3. In addition to powers conferred elsewhere in this compact, the commission shall have power to:

(a) study state and local tax systems and particular types of state and local taxes;

(b) develop and recommend proposals for an increase in uniformity or compatibility of state and local tax laws with a view toward encouraging the simplification and improvement of state and local tax law and administration;

(c) compile and publish information as in its judgment would assist the party states in implementation of the compact and taxpayers in complying with state and local tax laws; and

(d) do all things necessary and incidental to the administration of its functions pursuant to this compact.

Finance

4. (a) The commission shall submit to the governor or designated officer or officers of each party state a budget of its estimated expenditures for such period as may be required by the laws of that state for presentation to the legislature thereof.

(b) Each of the commission's budgets of estimated expenditures shall contain specific recommendations of the amounts to be appropriated by each of the party states. The total amount of appropriations requested under any such budget shall be apportioned among the party states as follows: one-tenth in equal shares; and the remainder in proportion to the amount of revenue collected by each party state and its subdivisions from income taxes, capital stock taxes, gross receipts taxes, sales and use taxes. In determining such amounts, the commission shall employ such available public sources of information as, in its judgment, present the most equitable and accurate comparisons among the party states. Each of the commission's budgets of estimated expenditures and requests for appropriations shall indicate the sources used in obtaining information employed in applying the formula contained in this paragraph.

(c) The commission shall not pledge the credit of any party state. The commission may meet any of its obligations in whole or in part with funds available to it under paragraph 1(i) of this article; provided that the commission takes specific action setting aside such funds prior to incurring any obligation to be met in whole or in part in such manner. Except where the commission makes use of funds available to it under paragraph 1(i), the commission shall not incur any obligation prior to the allotment of funds by the party states adequate to meet the same.

(d) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the commission.

(e) The accounts of the commission shall be open at any reasonable time for inspection by duly constituted officers of the party states and by any persons authorized by the commission.

(f) Nothing contained in this article shall be construed to prevent commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the commission.

ARTICLE VII. UNIFORM REGULATIONS AND FORMS

1. Whenever any two or more party states, or subdivisions of party states, have uniform or similar provisions of law relating to an income tax, the commission may adopt uniform regulations for any phase of the administration of such law, including assertion of jurisdiction to tax, or prescribing uniform tax forms.

2. Prior to the adoption of any regulations, the commission shall:

(a) as provided in its bylaws, hold at least one public hearing on due notice to all affected party states and subdivisions thereof and to all taxpayers and other persons who have made timely request of the commission for advance notice of its regulation-making proceedings; and

(b) afford all affected party states and subdivisions and interested persons an opportunity to submit relevant written data and views, which shall be considered fully by the commission.

3. The commission shall submit any regulations adopted by it to the appropriate officials of all party states and subdivisions to which they might apply. Each such state and subdivision shall consider any such regulation for adoption in accordance with its own laws and procedures.

ARTICLE VIII. INTERSTATE AUDITS

1. This article shall be in force only in those party states that specifically provide therefor by statute.

2. Any party state or subdivision thereof desiring to make or participate in an audit of any accounts, books, papers, records, or other documents may request the commission to perform the audit on its behalf. In responding to the request, the commission shall have access to and may examine, at any reasonable time, such accounts, books, papers, records, and other documents and any relevant property or stock of merchandise. The commission may enter into agreements with party states or their subdivisions for assistance in performance of the audit. The commission shall make charges, to be paid by the state or local government or governments for which it performs the service, for any audits performed by it in order to reimburse itself for the actual costs incurred in making the audit.

3. The commission may require the attendance of any person within the state where it is conducting an audit or part thereof at a time and place fixed by it within such state for the purpose of giving testimony with respect to any account, book, paper, document, other record, property, or stock of merchandise being examined in connection with the audit. If the person is not within the jurisdiction, he may be required to attend for such purpose at any time and place fixed by the commission within the state of which he is a resident; provided that such state has adopted this article.

4. The commission may apply to any court having power to issue compulsory process for orders in aid of its powers and responsibilities pursuant to this article and any and all such courts shall have jurisdiction to issue such orders. Failure of any person to obey any such order shall be punishable as contempt of the issuing court. If the party or subject matter on account of which the commission seeks an order is within the jurisdiction of the court to which application is made, such application may be to a court in the state or subdivision on behalf of which the audit is being made or a court in the state in which the object of the order being sought is situated. The provisions of this paragraph apply only to courts in a state that has adopted this article.

5. The commission may decline to perform any audit requested if it finds that its available personnel or other resources are insufficient for the purpose or that, in the terms requested, the audit is impracticable of satisfactory performance. If the commission, on the basis of its experience, has reason to believe that an audit of a particular taxpayer, either at a particular time or on a particular schedule, would be of interest to a number of party states or their subdivisions, it may offer to make the audit or audits, the offer to be contingent on sufficient participation therein as determined by the commission.

6. Information obtained by any audit pursuant to this article shall be confidential and available only for tax purposes to party states, their subdivisions or the United States. Availability of information shall be in accordance with the laws of the states or subdivisions on whose account the commission performs the audit, and only through the appropriate agencies or officers of such states or subdivisions. Nothing in this article shall be construed to require any taxpayer to keep records for any period not otherwise required by law.

7. Other arrangements made or authorized pursuant to law for cooperative audit by or on behalf of the party states or any of their subdivisions are not superseded or invalidated by this article.

8. In no event shall the commission make any charge against a taxpayer for an audit.

9. As used in this article, "tax," in addition to the meaning ascribed to it in Article II, means any tax or license fee imposed in whole or in part for revenue purposes.

ARTICLE IX. ARBITRATION (intentionally omitted)

ARTICLE X. ENTRY INTO FORCE AND WITHDRAWAL

1. This compact shall enter into force when enacted into law by any seven states. Thereafter, this compact shall become effective as to any other state upon its enactment thereof. The commission shall arrange for notification of all party states whenever there is a new enactment of the compact.

2. Any party state may withdraw from this compact by enacting a statute repealing the same. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

3. No proceeding commenced before an arbitration board prior to the withdrawal of a state and to which the withdrawing state or any subdivision thereof is a party shall be discontinued or terminated by the withdrawal, nor shall the board thereby lose jurisdiction over any of the parties to the proceeding necessary to make a binding determination therein.

ARTICLE XI. EFFECT ON OTHER LAWS AND JURISDICTION

Nothing in this compact shall be construed to:

- (a) affect the power of any state or subdivision thereof to fix rates of taxation;
- (b) apply to any tax or fixed fee imposed for the registration of a motor vehicle or any tax on motor fuel, other than a sales tax; provided that the definition of "tax" in Article VIII 9 may apply for the purposes of that article and the commission's powers of study and recommendation pursuant to Article VI 3 may apply;
- (c) withdraw or limit the jurisdiction of any state or local court or administrative officer or body with respect to any person, corporation or other entity or subject matter, except to the extent that such jurisdiction is expressly conferred by or pursuant to this compact upon another agency or body; or
- (d) supersede or limit the jurisdiction of any court of the United States.

ARTICLE XII. CONSTRUCTION AND SEVERABILITY

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

Enacted by Chapter 462, 2013 General Session

59-1-808 Interaudit provisions to apply.

Article VIII of the Multistate Tax Compact relating to interaudits shall be in force in and with respect to this state.

Renumbered and Amended by Chapter 3, 1987 General Session

59-1-809 Commission authority related to the Multistate Tax Commission and governmental entities.

The commission may furnish to the Multistate Tax Commission, a taxing official of another state, the District of Columbia, or the United States or its territories, any information contained in:

- (1) a tax return or report, a related schedule, or a document filed pursuant to the tax laws of this state; or
- (2) the report of an audit or investigation made with respect to a tax return or report, a related schedule, or a document described in Subsection (1).

Amended by Chapter 54, 2014 General Session

Part 9

Utah Tax Review Commission

59-1-901 Creation -- Members -- Terms.

(1) There is created a state commission to be known as the Utah Tax Review Commission.

(2)

(a) The Utah Tax Review Commission shall be composed of 16 members as follows:

- (i) two members shall be appointed by the speaker of the House of Representatives from the House of Representatives, not more than one of whom may be from the same political party;
- (ii) two members shall be appointed by the president of the Senate from the Senate, not more than one of whom may be from the same political party;
- (iii) five members shall be appointed by the governor, not more than three of whom may be from the same political party;
- (iv) one member who is a member of the State Tax Commission, appointed by the State Tax Commission, shall be an ex officio member of the Utah Tax Review Commission;
- (v) one member who is the House of Representatives chair of the Revenue and Taxation Interim Committee shall be an ex officio member of the Utah Tax Review Commission; and
- (vi) one member who is the Senate chair of the Revenue and Taxation Interim Committee shall be an ex officio member of the Utah Tax Review Commission.

(b) The 12 members appointed under Subsection (2)(a) shall then select four additional members with consideration to be given to achieving ethnic, cultural, and gender diversity, representation from the major geographical areas of the state, and equal bipartisan representation.

(3)

(a) Except for members appointed under Subsections (2)(a)(i), (ii), (v), and (vi), and except as required by Subsection (3)(b), members shall be appointed to four-year terms.

- (b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of commission members are staggered so that approximately half of the commission is appointed every two years.

Amended by Chapter 288, 2007 General Session

59-1-902 Organization -- Vacancies.

- (1) The governor shall appoint a chairperson and the review commission shall select other officers as needed.
- (2)
 - (a) If one of the members appointed by the speaker of the House of Representatives resigns, is unable to serve, or ceases to be a member of the House of Representatives, a vacancy occurs and it shall be filled by the speaker of the House of Representatives.
 - (b) If one of the members appointed by the president of the Senate resigns, is unable to serve, or ceases to be a member of the Senate, a vacancy occurs and it shall be filled by the president of the Senate.
 - (c) If one of the members appointed by the governor resigns or is unable to serve, the vacancy shall be filled by the governor.
 - (d) If one of the members appointed by the review commission resigns or is unable to serve, the vacancy shall be filled by the commission.

Enacted by Chapter 237, 1990 General Session

59-1-903 Duties.

The review commission shall make recommendations to the governor and the Legislature on specific tax issues, as requested by:

- (1) the governor;
- (2) the Legislature in a joint resolution of the Legislature; or
- (3) the Legislative Management Committee.

Amended by Chapter 384, 2011 General Session

59-1-904 Public hearings.

The review commission may hold public hearings it considers advisable and in various locations within the state so that all interested persons who are citizens of this state may be afforded an opportunity to appear and present their views in respect to any subject relating to the work of the review commission under Section 59-1-903.

Amended by Chapter 384, 2011 General Session

59-1-905 Per diem and travel expenses.

- (1) A member who is not a legislator may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:
 - (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

- (2) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Amended by Chapter 387, 2014 General Session

59-1-907 Staff.

The review commission shall use the Office of Legislative Research and General Counsel as staff and may use the services of the staff of other state agencies as it considers desirable or necessary.

Enacted by Chapter 237, 1990 General Session

59-1-908 Reports.

The review commission may prepare, publish, and distribute, from time to time, reports of its studies and recommendations.

Enacted by Chapter 237, 1990 General Session

Part 10

Taxpayer Bill of Rights

59-1-1001 Statement of taxpayer rights.

- (1) The commission shall prepare written information in clear, nontechnical language of the taxpayer's rights and obligations and of the commission's procedures for appeal, refund claims, and collections.
- (2) When the commission contacts a taxpayer in writing about the determination or collection of any tax, the commission shall notify the taxpayer of the availability of a written statement of the taxpayer's rights and obligations and of the commission's procedures for appeal, refund claims, and collections. If a taxpayer requests this information, the commission shall provide it to the taxpayer free of charge.
- (3) In notices to taxpayers of taxes and penalties due, the commission shall notify the taxpayer of the procedure to follow in order to request detailed information concerning the additional taxes, tax penalties, or interest.

Enacted by Chapter 35, 1991 General Session

59-1-1002 Audit interviews.

- (1) During any audit interview, the commission shall:
 - (a) require reasonable scheduling of its audit interviews;
 - (b) permit recording of audit interviews;
 - (c) explain its audit and collection process before the first interview; and
 - (d) allow a taxpayer to be represented at an interview by an attorney or other representative with power of attorney.
- (2) The commission may not require a taxpayer to bring his attorney or other representative to interviews.

Enacted by Chapter 35, 1991 General Session

59-1-1003 Penalty waiver.

The commission shall waive penalties on taxpayer underpayments that are attributable to incorrect written advice obtained from the commission unless the taxpayer has given the commission inaccurate or insufficient information.

Enacted by Chapter 35, 1991 General Session

59-1-1004 Installment payments.

- (1) The commission may enter into agreements with taxpayers on installment payments of taxes, penalties, and interest. The commission may revise, accelerate, or cancel the installment agreement if any of the following occurs:
 - (a) the commission determines that the financial condition of the taxpayer has substantially changed;
 - (b) the commission determines that the taxpayer provided inaccurate information concerning his financial condition; or
 - (c) the taxpayer fails to make timely payments pursuant to the terms of the installment agreement.
- (2) The commission shall give the taxpayer reasonable notice of its intent to revise or cancel an installment agreement entered into under this section.

Enacted by Chapter 35, 1991 General Session

59-1-1005 Suits against commission and its employees.

- (1) A taxpayer may bring a civil suit against the commission for recovery of actual damages and costs incurred by the taxpayer if:
 - (a) the commission or one of its employees intentionally or recklessly takes possession of a taxpayer's property in disregard of its published procedures, laws, or rules; or
 - (b) otherwise intentionally or recklessly disregards published procedures, laws, or rules.
- (2) An award of actual damages and court costs in a suit under this section may not exceed \$100,000.
- (3) If the court finds that the civil action brought by the taxpayer is frivolous, the court may impose a penalty of up to \$10,000 against the taxpayer.

Amended by Chapter 9, 2001 General Session

59-1-1006 Application to jeopardy assessments and property tax.

The provisions of Section 59-1-1004 do not apply to jeopardy assessments authorized by Sections 59-1-701 through 59-1-707. The provisions of this part do not apply to Title 59, Chapter 2, Property Tax Act.

Amended by Chapter 30, 1992 General Session

**Part 11
Private Collection**

59-1-1101 Private collection of tax -- Fee.

- (1) The tax commission is authorized to employ private collectors for the collection of accounts that are unpaid over 12 months after the assessment date.
- (2) Up to, but no more than, 33% of the money collected may be used to offset the payment to a private collector.

Amended by Chapter 182, 2000 General Session

59-1-1102 Disclosure of tax information -- Confidentiality.

- (1)
 - (a) Notwithstanding Section 59-1-403, the commission may disclose the tax due, the name of the taxpayer, and the taxpayer's address and phone number when any tax is referred to a private collector under Section 59-1-1101.
 - (b) This disclosure may not be made if it would be in violation of Section 6103 of the Internal Revenue Code.
- (2) Any private collector is subject to the confidentiality requirements and penalty provisions provided in Section 59-1-403 with regard to these records.

Enacted by Chapter 165, 1994 General Session

Part 13
Reportable Transactions Act

59-1-1301 Title.

This part is known as the "Reportable Transactions Act."

Enacted by Chapter 237, 2006 General Session

59-1-1302 Definitions.

- (1) "Gross income" is as defined in Section 61, Internal Revenue Code.
- (2) "Income tax" means a tax imposed under:
 - (a) Chapter 7, Corporate Franchise and Income Taxes; or
 - (b) Chapter 10, Individual Income Tax Act.
- (3) "Income tax return" means a return filed under:
 - (a) Chapter 7, Corporate Franchise and Income Taxes; or
 - (b) Chapter 10, Individual Income Tax Act.
- (4) "Listed transaction" means a reportable transaction that is the same as, or substantially similar to, a transaction or arrangement specifically identified as a listed transaction by the:
 - (a) United States Secretary of the Treasury in written materials interpreting the requirements of Section 6011, Internal Revenue Code; or
 - (b) commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (5) "Material advisor" is as defined in Section 6111, Internal Revenue Code.
- (6) "Reportable transaction" means a transaction or arrangement that:
 - (a) is carried out through or invested in by one or more entities that:

- (i) are organized in this state;
 - (ii) do business in this state;
 - (iii) derive gross income from sources within this state;
 - (iv) are subject to income tax; or
 - (v) are otherwise subject to the jurisdiction of this state; and
- (b) is:
- (i) a transaction or arrangement described in 26 C.F.R. Sec. 1.6011-4(b)(2) through (7); or
 - (ii) a reportable transaction as described by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (7) "Taxpayer" means a person that is required to file an income tax return.
- (8) "Unitary group" is as defined in Section 59-7-101.

Amended by Chapter 382, 2008 General Session

59-1-1303 Taxpayer disclosure of reportable transactions.

- (1) A taxpayer is subject to this section for each taxable year in which:
- (a) the taxpayer participates in a reportable transaction;
 - (b) the taxpayer:
 - (i) is included in a federal consolidated return under Sections 1501 and 1504(b), Internal Revenue Code; and
 - (ii) participates in a reportable transaction; or
 - (c) the taxpayer is a member of a group that:
 - (i) is a unitary group; and
 - (ii) participates in a reportable transaction.
- (2)
- (a) A taxpayer described in Subsection (1) shall disclose a reportable transaction to the commission in a manner required by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
 - (b) If a taxpayer described in Subsection (1) is required to file a disclosure statement under 26 C.F.R. Sec. 1.6011-4, the taxpayer shall provide the commission a copy of that disclosure statement in a manner required by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (3)
- (a) For a listed transaction entered into on or after January 1, 2004, but on or before December 31, 2006, a disclosure statement required by this section shall be attached to:
 - (i)
 - (A) the taxpayer's income tax return for the taxable year beginning on or after January 1, 2007, but beginning on or before December 31, 2007; and
 - (B) any amended income tax return that the taxpayer files for the taxable year beginning on or after January 1, 2007, but beginning on or before December 31, 2007; and
 - (ii) subject to Subsection (3)(b):
 - (A) the taxpayer's income tax return for any taxable year after the taxable year beginning on or after January 1, 2007, but beginning on or before December 31, 2007, for which there is a reduction in income tax as a result of the listed transaction; and
 - (B) any amended income tax return for any taxable year after the taxable year beginning on or after January 1, 2007, but beginning on or before December 31, 2007, for which there is a reduction in income tax as a result of the listed transaction.

- (b) For purposes of Subsection (3)(a)(ii), a reduction in income tax as a result of a listed transaction includes a loss, credit, or deduction if the loss, credit, or deduction results from a listed transaction that is carried forward or carried back.
- (4) For a reportable transaction entered into on or after January 1, 2004, a disclosure statement required by this section shall be attached to an amended income tax return filed on or after January 1, 2007, if the filing of the amended income tax return reflects a determination by the Internal Revenue Service of the federal income tax treatment of the reportable transaction.
- (5)
 - (a) For a reportable transaction entered into on or after January 1, 2007, a disclosure statement required by this section shall be attached to:
 - (i)
 - (A) the taxpayer's income tax return for the taxable year during which the transaction was entered into; and
 - (B) any amended income tax return that the taxpayer files for the taxable year during which the transaction was entered into; and
 - (ii) subject to Subsection (5)(b):
 - (A) the taxpayer's income tax return for any taxable year after the taxable year during which the transaction was entered into, for which there is a reduction in income tax as a result of the reportable transaction; and
 - (B) any amended income tax return for any taxable year after the taxable year during which the transaction was entered into, for which there is a reduction in income tax as a result of the reportable transaction.
 - (b) For purposes of Subsection (5)(a)(ii), a reduction in income tax as a result of a reportable transaction includes a loss, credit, or deduction if the loss, credit, or deduction results from a reportable transaction that is carried forward or carried back.

Amended by Chapter 382, 2008 General Session

59-1-1304 Penalty for taxpayer failure to disclose a reportable transaction.

- (1)
 - (a) Except as provided in Subsection (1)(b), a taxpayer that fails to disclose a reportable transaction as required by Section 59-1-1303 is subject to a penalty of \$15,000.
 - (b) A taxpayer that fails to disclose a listed transaction as required by Section 59-1-1303 is subject to a penalty of \$30,000.
- (2) A penalty imposed by this section is in addition to any other penalty imposed by this title.

Enacted by Chapter 237, 2006 General Session

59-1-1305 Penalty for taxpayer underpayment of tax attributable to a reportable transaction.

- (1) If the underpayment of a tax by a taxpayer is attributable to a reportable transaction, the taxpayer is subject to a penalty that is equal to the product of:
 - (a) 10%; and
 - (b) the amount of the tax underpayment attributable to the reportable transaction.
- (2) If a taxpayer amends an income tax return to change the tax treatment of a reportable transaction after the day on which the commission contacts the taxpayer regarding the examination of the income tax return, that change in the tax treatment of the reportable transaction contained in the amended income tax return may not be considered in determining a tax underpayment under this section.

(3) A penalty imposed by this section is in addition to any other penalty imposed by this title.

Enacted by Chapter 237, 2006 General Session

59-1-1306 Material advisor disclosure of reportable transactions.

- (1)
 - (a) A material advisor shall disclose a reportable transaction to the commission on a form provided by the commission.
 - (b) The disclosure described in Subsection (1)(a):
 - (i) shall include information:
 - (A) identifying and describing the transaction; and
 - (B) describing any potential tax benefits expected to result from the transaction; and
 - (ii) may include information other than the information described in Subsection (1)(b)(i) as required by the commission.
- (2) If a material advisor described in Subsection (1) is required to file a return disclosing a reportable transaction under Section 6111, Internal Revenue Code, the material advisor shall provide the commission a copy of that return.
- (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules prescribing:
 - (a) the date a:
 - (i) disclosure required by Subsection (1) shall be filed with the commission; and
 - (ii) copy of a return required by Subsection (2) shall be filed with the commission;
 - (b) that only one person may be required to meet the requirements of Subsection (1) or (2) if two or more persons would otherwise be required to meet the requirements of Subsection (1) or (2); and
 - (c) exemptions from Subsection (1) or (2).

Amended by Chapter 382, 2008 General Session

59-1-1307 Material advisor maintenance of list.

- (1) For each reportable transaction, a material advisor shall maintain a list of the persons to which the material advisor provides material aid, assistance, or advice with respect to organizing, managing, promoting, selling, implementing, insuring, or carrying out a reportable transaction.
- (2) The list described in Subsection (1) shall include:
 - (a) the name of each person described in Subsection (1) that is:
 - (i) a taxpayer;
 - (ii)
 - (A) a taxpayer; and
 - (B) a member of a unitary group; or
 - (iii)
 - (A) a taxpayer; and
 - (B) included in a federal consolidated return under Sections 1501 and 1504(b), Internal Revenue Code;
 - (b) the same information required to be contained in the list described in 26 C.F.R. Sec. 301.6112-1; and
 - (c) any additional information required by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

- (3) The list described in Subsection (1) shall be maintained in the same form and manner as the list described in 26 C.F.R. Sec. 301.6112-1.
- (4) A material advisor required to maintain a list under Subsection (1) shall:
 - (a) make the list available to the commission upon written request by the commission; and
 - (b) retain the information that is required to be included on the list for seven years.
- (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules prescribing that only one person may be required to meet the requirements of this section if two or more persons would otherwise be required to meet the requirements of this section.

Amended by Chapter 382, 2008 General Session

59-1-1308 Material advisor penalties.

- (1) The penalty for failure of a material advisor to disclose a reportable transaction as required by Section 59-1-1306 is \$20,000.
- (2) If a material advisor that is required to disclose a reportable transaction in accordance with Section 59-1-1306 provides false or incomplete information to the commission, the penalty is \$20,000.
- (3) If a material advisor that is required to maintain a list under Section 59-1-1307 fails to make that list available to the commission within a 20-day period after the day on which the commission mails a written request for that list, the material advisor is subject to a penalty of \$10,000 for each day that the material advisor fails to make that list available to the commission after the expiration of the 20-day period.
- (4) A penalty imposed by this section is in addition to any other penalty imposed by this title.

Enacted by Chapter 237, 2006 General Session

59-1-1309 Penalty may be waived, reduced, or compromised for reasonable cause.

Upon making a record of its actions, and upon reasonable cause shown, the commission may waive, reduce, or compromise a penalty imposed by this part.

Enacted by Chapter 237, 2006 General Session

Part 14

Assessment, Collections, and Refunds Act

59-1-1401 Title.

This part is known as the "Assessment, Collections, and Refunds Act."

Enacted by Chapter 212, 2009 General Session

59-1-1402 Definitions.

As used in this part:

- (1) "Administrative cost" means a fee imposed to cover:
 - (a) the cost of filing;
 - (b) the cost of administering a garnishment;

- (c) the amount the commission pays to a depository institution in accordance with Title 59, Chapter 1, Part 17, Depository Institution Data Match System and Levy Act; or
 - (d) a cost similar to Subsections (1)(a) through (c) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (2) "Books and records" means the following made available in printed or electronic format:
- (a) an account;
 - (b) a book;
 - (c) an invoice;
 - (d) a memorandum;
 - (e) a paper;
 - (f) a record; or
 - (g) an item similar to Subsections (2)(a) through (f) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (3) "Deficiency" means:
- (a) the amount by which a tax, fee, or charge exceeds the difference between:
 - (i) the sum of:
 - (A) the amount shown as the tax, fee, or charge by a person on the person's return; and
 - (B) any amount previously assessed, or collected without assessment, as a deficiency; and
 - (ii) any amount previously abated, credited, refunded, or otherwise repaid with respect to that tax, fee, or charge; or
 - (b) if a person does not show an amount as a tax, fee, or charge on the person's return, or if a person does not make a return, the amount by which the tax, fee, or charge exceeds:
 - (i) the amount previously assessed, or collected without assessment, as a deficiency; and
 - (ii) any amount previously abated, credited, refunded, or otherwise repaid with respect to that tax, fee, or charge.
- (4) "Garnishment" means any legal or equitable procedure through which one or more of the following are required to be withheld for payment of an amount a person owes:
- (a) an asset of the person held by another person; or
 - (b) the earnings of the person.
- (5) "Liability" means the following that a person is required to remit to the commission:
- (a) a tax, fee, or charge;
 - (b) an addition to a tax, fee, or charge;
 - (c) an administrative cost;
 - (d) interest that accrues in accordance with Section 59-1-402; or
 - (e) a penalty that accrues in accordance with Section 59-1-401.
- (6)
- (a) Subject to Subsection (6)(b), "mathematical error" is as defined in Section 6213(g)(2), Internal Revenue Code.
 - (b) The reference to Section 6213(g)(2), Internal Revenue Code, in Subsection (6)(a) means:
 - (i) the reference to Section 6213(g)(2), Internal Revenue Code, in effect for the taxable year; or
 - (ii) a corresponding or comparable provision of the Internal Revenue Code as amended, redesignated, or reenacted.
- (7)
- (a) Except as provided in Subsection (7)(b), "tax, fee, or charge" means:
 - (i) a tax, fee, or charge the commission administers under:
 - (A) this title;
 - (B) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
 - (C) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

- (D) Section 19-6-410.5;
- (E) Section 19-6-714;
- (F) Section 19-6-805;
- (G) Section 32B-2-304;
- (H) Section 34A-2-202;
- (I) Section 40-6-14;
- (J) Section 69-2-5;
- (K) Section 69-2-5.5; or
- (L) Section 69-2-5.6; or
- (ii) another amount that by statute is administered by the commission.
- (b) "Tax, fee, or charge" does not include a tax, fee, or charge imposed under:
 - (i) Title 41, Chapter 1a, Motor Vehicle Act, except for Section 41-1a-301;
 - (ii) Title 41, Chapter 3, Motor Vehicle Business Regulation Act;
 - (iii) Chapter 2, Property Tax Act;
 - (iv) Chapter 3, Tax Equivalent Property Act;
 - (v) Chapter 4, Privilege Tax; or
 - (vi) Chapter 13, Part 5, Interstate Agreements.
- (8) "Transferee" means:
 - (a) a devisee;
 - (b) a distributee;
 - (c) a donee;
 - (d) an heir;
 - (e) a legatee; or
 - (f) a person similar to Subsections (8)(a) through (e) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Amended by Chapter 326, 2016 General Session

59-1-1402.1 Exceptions to applicability of this part.

This part does not apply to:

- (1) Chapter 2, Property Tax Act;
- (2) Chapter 3, Tax Equivalent Property Act; or
- (3) Chapter 4, Privilege Tax.

Enacted by Chapter 52, 2011 General Session

59-1-1403 Commission to collect a tax, fee, or charge -- Receipt for tax, fee, or charge paid -- Additional remedies -- Collection agents and counsel -- Action by attorney general or county attorney -- Commission rulemaking authority.

- (1) Except as otherwise provided in this title, the commission shall collect a tax, fee, or charge.
- (2) The commission may designate an agent to collect a tax, fee, or charge.
- (3) The commission shall, upon request, give a receipt for a tax, fee, or charge the commission collects.
- (4)
 - (a) A remedy provided in this part is in addition to other existing remedies.
 - (b) An action taken by the commission may not be construed to be an election on the part of the state or an officer of the state to pursue a remedy under this part to the exclusion of another remedy.

- (5) The commission may:
 - (a) retain counsel for the purpose of collecting an amount the commission assesses against a person who is not a resident of this state;
 - (b) establish the compensation of an agent described in Subsection (2) or counsel described in Subsection (5)(a) to be paid out of money appropriated or otherwise lawfully available for payment to the agent or counsel; and
 - (c) require a bond or other security for an agent described in Subsection (2) or counsel described in Subsection (5)(a) in a form and amount the commission considers appropriate.
- (6)
 - (a) The commission shall represent the state in a matter pertaining to the collection of a tax, fee, or charge.
 - (b) The commission may institute a proceeding to enforce a judgment allowing for the collection of a liability in the district court of a county in which is located a portion of property against which collection is sought.
 - (c) For purposes of Subsection (6)(b), the commission may request that the following assist the commission:
 - (i) the attorney general; or
 - (ii) a county attorney.
- (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule establish a collection procedure:
 - (a) in addition to the methods of collecting a liability provided in this title;
 - (b) that is consistent with this part;
 - (c) that uses a return, warrant, or other reasonable document or method; and
 - (d) that is necessary in collecting a liability.

Enacted by Chapter 212, 2009 General Session

59-1-1404 Definition -- Mailing procedures -- Rulemaking authority -- Commission mailing requirements.

- (1) As used in this section, "Section 7502, Internal Revenue Code" means:
 - (a) Section 7502, Internal Revenue Code, in effect for the taxable year; or
 - (b) a corresponding or comparable provision to Section 7502, Internal Revenue Code, as amended, redesignated, or reenacted.
- (2) If the commission or a person is required to mail a document under this part:
 - (a) the commission or the person shall mail the document using:
 - (i) the United States Postal Service; or
 - (ii) a delivery service the commission describes or designates in accordance with any rules the commission makes as authorized by Subsection (3); and
 - (b) the document is considered to be mailed:
 - (i) for a document that is mailed using the method described in Subsection (2)(a)(i), on the date the document is postmarked; or
 - (ii) for a document that is mailed using the method described in Subsection (2)(a)(ii), on the date the delivery service records or marks the document as having been received by the delivery service for delivery in accordance with any rules the commission makes as authorized by Subsection (3).
- (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

- (a) describing or designating one or more delivery services the commission or a person may use to mail a document under this part if a delivery service the commission describes or specifies is consistent with the definition of "designated delivery service" in Section 7502, Internal Revenue Code; or
 - (b) providing procedures or requirements for determining the date a delivery service records or marks a document as having been received by the delivery service for delivery if those rules are consistent with Section 7502, Internal Revenue Code.
- (4) Subject to Subsection (5), if the commission is required to mail a notice to a person under this part, the commission shall mail the notice to the person at the person's last-known address as shown on the records of the commission.
- (5) In the case of a joint return filed by a husband and wife under Chapter 10, Individual Income Tax Act, if the commission is notified in writing by either spouse that separate residences have been established, the commission shall mail a duplicate of the joint notice to each spouse at each spouse's last-known address.

Enacted by Chapter 212, 2009 General Session

59-1-1405 Notice of deficiency -- Notice of assessment -- Amended return -- Exception.

- (1) Except as provided in Subsection (3) or (5), the commission shall mail a notice of deficiency to a person in accordance with Section 59-1-1404 if the commission finds there is:
- (a) a deficiency in a tax, fee, or charge imposed; or
 - (b) an increase or decrease in a deficiency.
- (2) A notice of deficiency described in Subsection (1) shall contain:
- (a) the details of the deficiency; and
 - (b) the manner of computing the tax.
- (3) If the commission estimates an amount of tax, fee, or charge due under Subsection 59-1-1406(2), the commission:
- (a) shall mail a notice of deficiency:
 - (i) to the person for which the commission estimates the amount of tax, fee, or charge due; and
 - (ii) in accordance with Section 59-1-1404; or
 - (b) shall:
 - (i) mail a notice to the person for which the commission estimates the amount of tax, fee, or charge due:
 - (A) that the amount the commission estimates as a tax, fee, or charge is an assessment; and
 - (B) in accordance with Section 59-1-1404; and
 - (ii) provide in the notice described in Subsection (3)(b)(i) that if the person files an amended return within the time period provided in Section 59-1-1410, the commission shall replace the assessment with the amount shown on the person's amended return.
- (4) If the commission mails notice to a person under Subsection (3)(b), the person may file an amended return within the period provided in Section 59-1-1410 to replace the assessment of tax.
- (5) If the commission makes a jeopardy assessment under Part 7, Termination and Jeopardy Assessments Procedure:
- (a) the commission is not required to mail a notice of deficiency described in Subsection (1) to the person against which the commission makes the jeopardy assessment; and
 - (b) the jeopardy assessment is subject to the procedures and requirements of Part 7, Termination and Jeopardy Assessments Procedure.

Enacted by Chapter 212, 2009 General Session

59-1-1406 Record retention -- Commission estimates tax if person fails to file a return.

- (1) A person subject to a tax, fee, or charge shall:
 - (a) keep in a form prescribed by the commission books and records that are necessary to determine the amount of a tax, fee, or charge the person owes;
 - (b) keep books and records described in Subsection (1)(a) for the time period during which an assessment may be made under Section 59-1-1408; and
 - (c) open the person's books and records for examination at any time by:
 - (i) the commission; or
 - (ii) an agent or representative the commission designates.
- (2)
 - (a) If a person required to file a return with the commission fails to file the return with the commission, the commission may estimate the tax, fee, or charge due from the best information or knowledge the commission can obtain.
 - (b) An estimate the commission makes under Subsection (2)(a) is considered to be a return filed on the date the commission makes the estimate.
- (3) For the purpose of ascertaining the correctness of a return or for estimating a tax, fee, or charge due in accordance with Subsection (2)(a), the commission may:
 - (a) examine the books and records bearing upon the matter required to be included in a return;
 - (b) authorize an agent or representative designated by the commission to examine the books and records bearing upon the matter required to be included in a return;
 - (c) require the attendance of:
 - (i) an officer or employee of a person required to make a return; or
 - (ii) a person having knowledge of a pertinent fact;
 - (d) take testimony; or
 - (e) require any other necessary information.

Enacted by Chapter 212, 2009 General Session

59-1-1407 Mathematical errors.

- (1) The commission shall correct a mathematical error.
- (2) The commission shall provide notice to a person if:
 - (a) because of a mathematical error appearing on a return, an amount of tax, fee, or charge in excess of that shown upon the return is due; and
 - (b) an assessment of the amount of tax, fee, or charge is or will be made on the basis of what would have been the correct amount of tax, fee, or charge but for the mathematical error.
- (3) The notice required by Subsection (2):
 - (a) shall describe the mathematical error; and
 - (b) is not considered to be a notice of deficiency.
- (4) For purposes of Subsection (2):
 - (a) there is no restriction upon the assessment and collection of an amount of tax, fee, or charge described in Subsection (2); and
 - (b) the person described in Subsection (2) does not have a right to:
 - (i) file a petition to the commission on the basis of a notice provided under Subsection (2); or
 - (ii) apply for review by a district court or the Utah Supreme Court of the determination of a mathematical error by the commission.

Enacted by Chapter 212, 2009 General Session

59-1-1408 Assessments.

- (1) Except as provided in Subsections (2) through (4), an assessment is made on the date a liability is posted to the records of the commission.
- (2) Except as provided in Subsection (4), for purposes of a liability for which the commission mails a notice of deficiency to a person in accordance with Section 59-1-1405, an assessment is made:
 - (a) if a person has not filed a petition for redetermination of a deficiency under Section 59-1-501, on the date:
 - (i)
 - (A) 30 days after the day on which the commission mails the notice of deficiency to the person; or
 - (B) 90 days after the day on which the commission mails the notice of deficiency to the person if the notice is addressed to a person outside the United States or the District of Columbia; or
 - (ii) the person in writing:
 - (A) agrees with the commission on the existence and amount of the liability; and
 - (B) consents to the assessment of the liability; or
 - (b) if a person files a petition for redetermination of a deficiency under Section 59-1-501, on the date the liability resulting from a final commission decision is posted to the records of the commission.
- (3) Except as provided in Subsection (4), for purposes of a notice of proposed penalty under Section 59-1-302 or Subsection 59-1-401(7), an assessment is made:
 - (a) if a person has not filed a petition for redetermination of a deficiency under Section 59-1-501, on the date:
 - (i)
 - (A) 30 days after the day on which the commission mails the notice of proposed penalty to the person; or
 - (B) 90 days after the day on which the commission mails the notice of proposed penalty to the person if the notice is addressed to a person outside the United States or the District of Columbia; or
 - (ii) the person in writing:
 - (A) agrees with the commission on the existence and amount of the liability; and
 - (B) consents to the assessment of the liability; or
 - (b) if a person files a petition for redetermination of a deficiency under Section 59-1-501, on the date the liability resulting from a final commission decision is posted to the records of the commission.
- (4) In the case of interest under Section 59-1-402 that accrues to a tax, fee, or charge, an assessment is considered to have been made on the date the tax, fee, or charge is assessed.
- (5) The commission may at any time within the time period prescribed for assessment under Section 59-1-1410, increase or decrease an assessment if the commission ascertains that the assessment is imperfect or incomplete in a material respect.

Enacted by Chapter 212, 2009 General Session

59-1-1409 Definition -- Recomputation of amounts due -- Refunds allowed.

- (1) As used in this section, "overpayment" means the amount by which a tax, fee, or charge a person pays exceeds the amount of tax, fee, or charge the person owes.
- (2) If the commission determines that the correct amount of a tax, fee, or charge a person is required to remit is greater or less than the amount shown to be due on a return, the commission shall:
 - (a) recompute the tax, fee, or charge; and
 - (b) mail notice to the person:
 - (i) that the commission recomputed the tax, fee, or charge; and
 - (ii) in accordance with Section 59-1-1404.
- (3) If the amount of a tax, fee, or charge a person pays exceeds the amount of tax, fee, or charge the person owes, the commission shall:
 - (a) credit the overpayment against any liability the person owes; and
 - (b) refund any balance to:
 - (i) the person; or
 - (ii)
 - (A) the person's assign;
 - (B) the person's personal representative;
 - (C) the person's successor; or
 - (D) a person similar to Subsections (3)(b)(ii)(A) through (C) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (4) The commission may not credit or refund interest on an overpayment to a person if the commission determines that the overpayment was made for the purpose of investment.
- (5) If the commission erroneously determines an amount of tax, fee, or charge to be due from a person, the commission shall:
 - (a) authorize the amount to be cancelled upon the commission's records; and
 - (b) mail notice to the person:
 - (i) that the commission cancelled the amount upon the commission's records; and
 - (ii) in accordance with Section 59-1-1404.

Enacted by Chapter 212, 2009 General Session

59-1-1410 Action for collection of tax, fee, or charge -- Action for refund or credit of tax, fee, or charge -- Denial of refund claim under appeal -- Appeal of denied refund claim.

- (1)
 - (a) Except as provided in Subsections (3) through (7) and Sections 59-5-114, 59-7-519, 59-10-536, and 59-11-113, the commission shall assess a tax, fee, or charge within three years after the day on which a person files a return.
 - (b) Except as provided in Subsections (3) through (7), if the commission does not assess a tax, fee, or charge within the three-year period provided in Subsection (1)(a), the commission may not commence a proceeding to collect the tax, fee, or charge.
- (2)
 - (a) Except as provided in Subsection (2)(b), for purposes of this part, a return filed before the last day prescribed by statute or rule for filing the return is considered to be filed on the last day for filing the return.
 - (b) A return of withholding tax under Chapter 10, Part 4, Withholding of Tax, is considered to be filed on April 15 of the succeeding calendar year if the return:
 - (i) is for a period ending with or within a calendar year; and

- (ii) is filed before April 15 of the succeeding calendar year.
- (3) The commission may assess a tax, fee, or charge or commence a proceeding for the collection of a tax, fee, or charge at any time if:
 - (a) a person:
 - (i) files a:
 - (A) false return with intent to evade; or
 - (B) fraudulent return with intent to evade; or
 - (ii) fails to file a return; or
 - (b) the commission estimates the amount of tax, fee, or charge due in accordance with Subsection 59-1-1406(2).
- (4) The commission may extend the period to make an assessment or to commence a proceeding to collect a tax, fee, or charge if:
 - (a) the three-year period under Subsection (1) has not expired; and
 - (b) the commission and the person sign a written agreement:
 - (i) authorizing the extension; and
 - (ii) providing for the length of the extension.
- (5) The commission may make an assessment as provided in Subsection (6) if:
 - (a) the commission delays an audit at the request of a person;
 - (b) the person subsequently refuses to agree to an extension request by the commission; and
 - (c) the three-year period under Subsection (1) expires before the commission completes the audit.
- (6) An assessment under Subsection (5) shall be:
 - (a) for the time period for which the commission could not make the assessment because of the expiration of the three-year period; and
 - (b) in an amount equal to the difference between:
 - (i) the commission's estimate of the amount of tax, fee, or charge the person would have been assessed for the time period described in Subsection (6)(a); and
 - (ii) the amount of tax, fee, or charge the person actually paid for the time period described in Subsection (6)(a).
- (7) If a person erroneously pays a liability, overpays a liability, pays a liability more than once, or the commission erroneously receives, collects, or computes a liability, the commission shall:
 - (a) credit the liability against any amount of liability the person owes; and
 - (b) refund any balance to:
 - (i) the person; or
 - (ii)
 - (A) the person's assign;
 - (B) the person's personal representative;
 - (C) the person's successor; or
 - (D) a person similar to Subsections (7)(b)(ii)(A) through (C) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (8)
 - (a) Except as provided in Subsection (8)(b) or Section 19-12-203, 59-7-522, 59-10-529, or 59-12-110, the commission may not make a credit or refund unless a person files a claim with the commission within the later of:
 - (i) three years from the due date of the return, including the period of any extension of time provided in statute for filing the return; or
 - (ii) two years from the date the tax was paid.

- (b) The commission shall extend the time period for a person to file a claim under Subsection (8) (a) if:
 - (i) the time period described in Subsection (8)(a) has not expired; and
 - (ii) the commission and the person sign a written agreement:
 - (A) authorizing the extension; and
 - (B) providing for the length of the extension.
- (9) If the commission denies a claim for a credit or refund, a person may request a redetermination of the denial by filing a petition or request for agency action with the commission:
 - (a)
 - (i) within a 30-day period after the day on which the commission mails a notice of denial for the claim for credit or refund; or
 - (ii) within a 90-day period after the day on which the commission mails a notice of denial for the claim for credit or refund, if the notice is addressed to a person outside the United States or the District of Columbia; and
 - (b) in accordance with:
 - (i) Section 59-1-501; and
 - (ii) Title 63G, Chapter 4, Administrative Procedures Act.
- (10) The action of the commission on a person's petition for redetermination of a denial of a claim for credit or refund is final 30 days after the day on which the commission sends the commission's decision or order, unless the person seeks judicial review.

Amended by Chapter 24, 2014 General Session

59-1-1411 Notice and demand.

- (1) The commission shall as soon as practicable mail notice and demand to a person who owes a liability that has been assessed but remains unpaid.
- (2)
 - (a) The notice and demand required by Subsection (1) shall:
 - (i) except as provided in Subsection (2)(b), state the amount of the liability;
 - (ii) demand payment of the liability; and
 - (iii) be mailed in accordance with Section 59-1-1404.
 - (b) For purposes of Subsection (2)(a)(i), the notice and demand shall:
 - (i) state the amount of interest and penalties that have accrued as of the date of the notice and demand; and
 - (ii) include a statement that interest and penalties may continue to accrue in accordance with Sections 59-1-401 and 59-1-402.
- (3) Payment for a liability may not be demanded before the last day prescribed for payment of the liability, including an extension, unless the commission determines under Section 59-1-701 that collection of the liability would be jeopardized by delay.
- (4) Upon issuance of the notice and demand described in this section, a person that owes a liability shall pay the liability at the place and time stated in the notice and demand.

Enacted by Chapter 212, 2009 General Session

59-1-1412 Applicability of section -- Delinquent payment -- Notice to third parties.

- (1)
 - (a) Except as provided in Subsection (1)(b), this section applies to a delinquency in the payment of a liability.

- (b) This section does not apply to a garnishment.
- (2) If a person is delinquent in the payment of a liability, the commission may mail notice of the amount of the delinquency:
 - (a) to a person that at the time of the receipt of the notice has in that person's possession, under that person's control, or owing to that person:
 - (i) a credit of the person owing the liability;
 - (ii) personal property of the person owing the liability; or
 - (iii) a debt of the person owing the liability; and
 - (b) in accordance with Section 59-1-1404.
- (3) A person to which the commission mails notice in accordance with this section shall, within 10 days after the date the commission mails the notice, advise the commission of the following in the person's possession, under the person's control, or owing to the person:
 - (a) a credit of the person owing the liability;
 - (b) personal property of the person owing the liability; or
 - (c) a debt of the person owing the liability.
- (4) A person to which the commission mails notice in accordance with this section may not transfer or make any other disposition of a credit, personal property, or debt described in Subsection (3) until the sooner of:
 - (a) the commission consents to the transfer or disposition; or
 - (b) 20 days elapse after the day on which the person provides the commission the information required by Subsection (3).

Enacted by Chapter 212, 2009 General Session

59-1-1413 Lien for a liability.

- (1) In addition to Section 40-6-14, 59-5-108, 59-5-208, 59-11-110, 59-12-112, 59-13-302, or 59-13-311, if a person that owes a liability fails to pay that liability after the commission mails notice and demand under Section 59-1-1411, the amount of liability, plus any administrative cost, is a lien in favor of the state upon all property and rights to property, whether real or personal, belonging to that person.
- (2) Unless another date is specifically established by law, the lien imposed by this section:
 - (a) arises at the time the commission makes the assessment of the tax, fee, or charge that is part of the liability; and
 - (b) continues until the liability and administrative costs described in Subsection (1), or a judgment against the person arising from that liability and administrative costs:
 - (i) is satisfied; or
 - (ii) is unenforceable because the time period described in Subsection 59-1-1414(8) has elapsed.

Enacted by Chapter 212, 2009 General Session

59-1-1414 Warrant procedures -- Judgment -- Notice requirements after filing warrant.

- (1) Except as provided in Subsections (3) and (4), if a person who owes a liability fails to pay that liability within 30 days after the day on which the commission mails notice and demand under Section 59-1-1411, the commission may:
 - (a) file a warrant with the clerk of:
 - (i) except as provided in Subsection (1)(a)(ii), the district court of any county in which that person has real or personal property; or

- (ii) if the person is not a resident of this state, the Third District Court in Salt Lake City; or
- (b) issue a warrant in duplicate under its official seal directed to the sheriff of a county requiring the sheriff to:
 - (i) levy upon and sell the person's real and personal property for the payment of the liability, plus the cost of executing the warrant; and
 - (ii) return to the commission within 60 days:
 - (A) the warrant; and
 - (B) the money collected under the warrant.
- (2)
 - (a) A sheriff that receives a warrant under Subsection (1) shall within five days file a duplicate copy of the warrant with the clerk of the district court of the appropriate county.
 - (b)
 - (i) The sheriff shall execute the warrant in the same manner prescribed by law for an execution issued against property in accordance with a judgment by a court.
 - (ii) An execution of a warrant described in Subsection (2)(b)(i) has the same effect as an execution issued against property in accordance with a judgment by a court.
 - (iii) A sheriff that executes a warrant under Subsection (2)(b)(i) shall receive fees for the sheriff's services in executing the warrant as if the sheriff were executing a judgment by a court.
- (3) The commission may file a warrant without regard to the 30-day period provided in Subsection (1) if the commission finds that the collection of a liability that a person owes is in jeopardy.
- (4) The commission may not file a warrant under this section more than three years after the assessment of the tax, fee, or charge that is a portion of a liability.
- (5) A clerk of a district court that receives a warrant under this section shall enter in the judgment docket:
 - (a) in the column for judgment debtors, the name of the person stated in the warrant; and
 - (b) in appropriate columns:
 - (i) the amount for which the warrant is filed; and
 - (ii) the date the warrant is filed.
- (6) Notwithstanding Section 78B-5-202, the liability that serves as the basis for a warrant is a binding lien upon the real, personal, and other property of the person to the same extent as other judgments docketed in the office of the clerk of the district court.
- (7) When a warrant is filed with the clerk of a district court in accordance with this section, the commission is considered to have obtained a judgment against a person for a liability.
- (8) Notwithstanding Section 78B-5-202, a judgment described in Subsection (7) is effective for a period ending 10 years after the date the amount for which the warrant is filed is assessed in accordance with Section 59-1-1408.
- (9) The commission may not renew a judgment described in Subsection (7).
- (10) The commission may authorize an action or proceeding to collect or enforce a judgment described in Subsection (7) in any place and by any procedure that a civil judgment of the Utah Supreme Court may be collected or enforced if:
 - (a) a warrant is filed under this section against a person who is not a resident of this state; and
 - (b) the commission determines that the person does not have sufficient real or personal property in the state to pay the person's liability.
- (11) After filing a warrant under Section 59-1-1414, the commission shall follow the notice requirements of Section 38-12-102.

Enacted by Chapter 212, 2009 General Session

59-1-1415 Release of lien.

The commission may release property from a lien placed under this part:

- (1) if the commission determines that the interests of the state will not be jeopardized by the release; and
- (2) under conditions the commission may require.

Enacted by Chapter 212, 2009 General Session

59-1-1416 Transferees.

- (1)
 - (a) If a transferee is obligated at law or equity for an amount of a liability of a person that originally owes a liability, the transferee is subject to this part for the assessment, payment, and collection of the amount of the liability for which the transferee has an obligation.
 - (b) The period of limitations for an assessment against a transferee is extended:
 - (i) subject to the other provisions of this section, by one year for each successive transfer:
 - (A) in the order of transfer; and
 - (B) beginning from the person that originally owes the liability to the transferee involved; and
 - (ii) by not more than three years in the aggregate.
- (2)
 - (a) Subject to Subsection (2)(b), if before the expiration of the period of limitations for assessment against a transferee, the commission files a claim in court against the person that originally owes the liability or the last preceding transferee, based upon the liability the person originally owes, the period of limitation for assessment against the transferee may not expire before one year after the claim is finally allowed, disallowed, or otherwise disposed of.
 - (b)
 - (i) Subject to Subsection (2)(b)(ii), if before expiration of the time period described in Subsection (1)(b) or (2)(a) for an assessment against a transferee, the commission and the transferee agree in writing to an assessment after the time period described in Subsection (1)(b) or (2)(a), the commission may make an assessment against the transferee at any time before the expiration of the time period to which the commission and transferee agree in writing.
 - (ii) A time period that the commission and a transferee agree upon in writing in accordance with Subsection (2)(b)(i) may be extended by written agreement:
 - (A) between the commission and the transferee; and
 - (B) made before the expiration of the time period that the commission and the transferee previously agreed upon.
 - (c) An agreement described in Subsection (2)(b)(i) or an extension described in Subsection (2)(b)(ii) is considered to be an agreement or extension described in Section 59-1-1410 for purposes of determining the period of limitation on a credit or refund to a transferee of an overpayment of a liability:
 - (i) made by:
 - (A) the transferee; or
 - (B) the transferor; and
 - (ii) for which the transferee is allowed a credit or refund.
 - (d) If an agreement described in Subsection (2)(b)(i) or an extension described in Subsection (2)(b)(ii) is executed after the expiration of the period of limitation for assessment against

the person that originally owes a liability, the time period in which a credit or refund may be claimed shall be increased by the time period:

- (i) beginning on the date of the expiration of the period of limitation for assessment against the person that originally owes the liability; and
 - (ii) ending on the date the agreement described in Subsection (2)(b)(i) or the extension described in Subsection (2)(b)(ii) is executed.
- (3) If the person that originally owes a liability is deceased, the period of limitation for assessment of a liability against that person is the period that would be in effect had the person lived.
- (4)
- (a) Subject to Subsection (4)(b) and notwithstanding Section 59-1-403, the commission shall make available to a transferee information necessary to enable the transferee to determine the liability:
 - (i) of the person that originally owes the liability; or
 - (ii) a preceding transferee owes.
 - (b) The commission may not take an action under Subsection (4)(a) that imposes an undue hardship to the person that originally owes the liability or a preceding transferee.

Enacted by Chapter 212, 2009 General Session

59-1-1417 Burden of proof -- Statutory construction.

- (1) In a proceeding before the commission, the burden of proof is on the petitioner except for determining the following, in which the burden of proof is on the commission:
- (a) whether the petitioner committed fraud with intent to evade a tax, fee, or charge;
 - (b) whether the petitioner is obligated as the transferee of property of the person that originally owes a liability or a preceding transferee, but not to show that the person that originally owes a liability is obligated for the liability; and
 - (c) whether the petitioner is liable for an increase in a deficiency if the increase is asserted initially after a notice of deficiency is mailed in accordance with Section 59-1-1405 and a petition under Part 5, Petitions for Redetermination of Deficiencies, is filed, unless the increase in the deficiency is the result of a change or correction of federal taxable income:
 - (i) required to be reported; and
 - (ii) of which the commission has no notice at the time the commission mails the notice of deficiency.
- (2) Regardless of whether a taxpayer has paid or remitted a tax, fee, or charge, the commission or a court considering a case involving the tax, fee, or charge shall:
- (a) construe a statute imposing the tax, fee, or charge strictly in favor of the taxpayer; and
 - (b) construe a statute providing an exemption from or credit against the tax, fee, or charge strictly against the taxpayer.

Amended by Chapter 424, 2012 General Session

59-1-1418 Suspension of running of statute of limitations.

- (1) The time period allowed for making an assessment or commencing a proceeding under Section 59-1-1410 shall be extended by the time period during which the commission is prohibited by law from making an assessment or commencing a proceeding for collection, plus 60 days.
- (2) The time period allowed for commencing a proceeding under Section 59-1-1410 shall be extended by the time period during which the commencement of the proceeding is stayed by injunction or statutory prohibition.

Enacted by Chapter 212, 2009 General Session

59-1-1419 Venue -- Section does not affect right to seek judicial review.

- (1) If the commission commences a proceeding relating to the following, the venue is the Third District Court in Salt Lake City:
 - (a) failure to pay a liability;
 - (b) failure to file a return; or
 - (c) failure to supply information.
- (2) Nothing in this section affects a right to seek judicial review in accordance with Part 6, Judicial Review.

Enacted by Chapter 212, 2009 General Session

Part 15
Specie Legal Tender Act

59-1-1501 Title.

This part is known as the "Specie Legal Tender Act."

Amended by Chapter 399, 2012 General Session

59-1-1501.1 Definitions.

Subject to Subsection 59-1-1502(3), as used in this part, "specie legal tender" means gold or silver coin that is issued by the United States.

Enacted by Chapter 399, 2012 General Session

59-1-1502 Specie legal tender is legal tender in the state -- Person may not compel another person to tender or accept specie legal tender -- Court or congressional action to authorize gold or silver coin or bullion as legal tender.

- (1) Specie legal tender is legal tender in the state.
- (2) Except as expressly provided by contract, a person may not compel any other person to tender or accept specie legal tender.
- (3) Gold or silver coin or bullion, other than gold or silver coin that is issued by the United States, is considered to be specie legal tender and is legal tender in the state if:
 - (a) a court of competent jurisdiction issues a final, unappealable judgment or order determining that the state may recognize the gold or silver coin or bullion, other than gold or silver coin that is issued by the United States, as legal tender in the state; or
 - (b) Congress enacts legislation that:
 - (i) expressly provides that the gold or silver coin or bullion, other than gold or silver coin that is issued by the United States, is legal tender in the state; or
 - (ii) expressly allows the state to recognize the gold or silver coin or bullion, other than gold or silver coin that is issued by the United States, as legal tender in the state.

Amended by Chapter 399, 2012 General Session

59-1-1503 Nonrefundable credit -- Sales and use tax exemption -- Sales and use tax remittance.

- (1) A nonrefundable individual income tax credit is allowed as provided in Section 59-10-1028 related to a capital gain on a transaction involving the exchange of one form of legal tender for another form of legal tender.
- (2) Sales of currency or coin are exempt from sales and use taxes as provided in Subsection 59-12-104(50).
- (3) The remittance of a sales and use tax on a transaction involving specie legal tender is as provided in Section 59-12-107.

Amended by Chapter 399, 2012 General Session

59-1-1505 Attorney general to enforce part.

The attorney general shall enforce this part.

Enacted by Chapter 399, 2012 General Session

59-1-1506 Severability clause.

If any provision of this part or the application of any provision to any person or circumstance is held invalid by a final decision of a court of competent jurisdiction, the remainder of this part shall be given effect without the invalid provision or application. The provisions of this part are severable.

Enacted by Chapter 399, 2012 General Session

Part 16
Transparency of Ballot Propositions Act

59-1-1601 Title.

This part is known as the "Transparency of Ballot Propositions Act."

Enacted by Chapter 356, 2014 General Session

59-1-1602 Definitions.

As used in this part:

- (1)
 - (a) "Ballot proposition" means:
 - (i) an opinion question or other question concerning a tax increase submitted to voters for their approval or rejection; or
 - (ii) a question submitted to voters concerning the issuance of bonds under Section 11-14-103.
 - (b) "Ballot proposition" does not include an initiative or referendum authorized under Title 20A, Chapter 7, Issues Submitted to the Voters.
- (2) "Determination date" means the date of an election at which a ballot proposition is considered by voters.
- (3) "Election officer" is as defined in Section 20A-1-102.

- (4) "Eligible voter" means a person who:
 - (a) has registered to vote in accordance with Title 20A, Chapter 2, Voter Registration; and
 - (b) is a resident of a voting district or precinct within the taxing entity that is holding an election to consider a ballot proposition.
- (5) "Governing body" is as defined in Section 59-2-102.
- (6) "Tax increase" means:
 - (a) for a property tax, the imposition of a property tax rate or increase in a property tax rate if the imposition or increase is required to be submitted to voters for their approval or rejection; or
 - (b) for a sales and use tax imposed under Chapter 12, Sales and Use Tax Act, a sales and use tax rate that:
 - (i) is not currently imposed; or
 - (ii) exceeds the sales and use tax rate that is currently imposed.
- (7) "Taxing entity" means:
 - (a) a taxing entity as defined in Section 59-2-102; or
 - (b) a county, city, or town authorized to impose a sales and use tax under Chapter 12, Sales and Use Tax Act.

Enacted by Chapter 356, 2014 General Session

59-1-1603 Applicability of part.

A taxing entity may not submit a ballot proposition unless the taxing entity complies with this part.

Enacted by Chapter 356, 2014 General Session

59-1-1604 Arguments for and against a ballot proposition -- Rebuttal arguments -- Posting arguments.

- (1) The arguments for or against a ballot proposition shall conform to the requirements of this section.
- (2)
 - (a)
 - (i) The governing body of a taxing entity shall submit to the election officer an argument in favor of a ballot proposition.
 - (ii) To prepare an argument for or against a ballot proposition, an eligible voter shall file a request with the election officer at least 65 days before the election at which the ballot proposition is to be voted on.
 - (b) If two or more eligible voters wish to submit an argument for, or an argument against, a ballot proposition, the election officer shall designate one of the eligible voters to submit the argument.
 - (c)
 - (i) An eligible voter who submits an argument under this section shall:
 - (A) ensure that the argument does not exceed 500 words in length;
 - (B) submit the argument to the election officer no less than 60 days before the determination date; and
 - (C) include with the argument the eligible voter's name, residential address, postal address, email address if available, and phone number.
 - (ii) An election officer shall refuse to accept and publish an argument that is submitted after the deadline described in Subsection (2)(c)(i)(B).

- (3)
 - (a) An election officer who timely receives the arguments in favor of and against a ballot proposition shall, within one business day after the day on which the election officer receives both arguments, send, via email or mail:
 - (i) a copy of the argument in favor of the ballot proposition to the eligible voter who submitted the argument against the ballot proposition; and
 - (ii) a copy of the argument against the ballot proposition to the eligible voter who submitted the argument in favor of the ballot proposition.
 - (b) The eligible voter who submitted a timely argument in favor of the ballot proposition:
 - (i) may submit to the election officer a rebuttal argument of the argument against the ballot proposition;
 - (ii) shall ensure that the rebuttal argument does not exceed 250 words in length; and
 - (iii) shall submit the rebuttal argument no later than 45 days before the election day on which the ballot proposition will be submitted to the voters.
 - (c) The eligible voter who submitted a timely argument against the ballot proposition:
 - (i) may submit to the election officer a rebuttal argument of the argument in favor of the ballot proposition;
 - (ii) shall ensure that the rebuttal argument does not exceed 250 words in length; and
 - (iii) shall submit the rebuttal argument no later than 45 days before the election day on which the ballot proposition will be submitted to the voters.
 - (d) An election officer shall refuse to accept and publish a rebuttal argument that is submitted after the deadline described in Subsection (3)(b)(iii) or (3)(c)(iii).
- (4)
 - (a) Except as provided in Subsection (4)(b):
 - (i) an eligible voter may not modify an argument or rebuttal argument after the eligible voter submits the argument or rebuttal argument to the election officer; and
 - (ii) a person other than the eligible voter described in Subsection (4)(a)(i) may not modify an argument or rebuttal argument.
 - (b) The election officer, and the eligible voter who submits an argument or rebuttal argument, may jointly agree to modify an argument or a rebuttal argument in order to:
 - (i) correct factual, grammatical, and spelling errors; and
 - (ii) reduce the number of words to come into compliance with the requirements of this section.
 - (c) An election officer shall refuse to accept and publish an argument or rebuttal argument if the eligible voter who submits the argument or rebuttal argument fails to negotiate, in good faith, to modify the argument or rebuttal argument in accordance with Subsection (4)(b).
- (5) An election officer may designate another eligible voter to take the place of an eligible voter described in this section if the original eligible voter is, due to injury, illness, death, or another circumstance, unable to continue to fulfill the duties of an eligible voter described in this section.
- (6) The election officer of a taxing entity shall:
 - (a) post the arguments and rebuttal arguments on the Statewide Electronic Voter Information Website as described in Section 20A-7-801 for 30 consecutive days before the determination date;
 - (b) if a taxing entity has a public website, post all arguments and rebuttal arguments in a prominent place on the taxing entity's public website for 30 consecutive days before the determination date; and
 - (c) if the taxing entity publishes a newsletter or other periodical, post all arguments and rebuttal arguments in the next scheduled newsletter or other periodical published before the determination date.

- (7) When posting an argument and rebuttal argument under Subsection (6), the election officer of a taxing entity shall ensure that:
- (a) a rebuttal argument is posted in the same manner as a direct argument;
 - (b) each rebuttal argument follows immediately after the direct argument that it seeks to rebut; and
 - (c) information regarding the public meeting required by Section 59-1-1605 follows immediately after the posted arguments, including the date, time, and place of the public meeting.

Amended by Chapter 53, 2016 General Session

59-1-1605 Public meeting requirements.

- (1) The governing body of a taxing entity shall conduct a public meeting in accordance with this section no more than 45, but at least four, days before the determination date.
- (2) The governing body of the taxing entity shall allow equal time, within a reasonable limit, for a presentation of the arguments:
 - (a) in favor of the ballot proposition; and
 - (b) against the ballot proposition.
- (3)
 - (a) A governing body of a taxing entity conducting a public meeting described in Subsection (1) shall provide an interested party desiring to be heard an opportunity to present oral testimony within reasonable time limits.
 - (b) A taxing entity shall hold a public meeting described in this section beginning at or after 6 p.m.
- (4)
 - (a) A taxing entity shall provide a digital audio recording of a public meeting described in Subsection (1) no later than three days after the date of the public meeting.
 - (b) For purposes of providing the digital audio recording described in Subsection (4)(a), a governing body of a taxing entity shall:
 - (i) if a taxing entity has a public website, provide access to the digital audio recording described in Subsection (4)(a) on the taxing entity's public website; or
 - (ii) provide a digital copy of the recording described in Subsection (4)(a) to members of the public at the taxing entity's primary government office building.

Amended by Chapter 53, 2016 General Session

Part 17
Depository Institution Data Match System and Levy Act

59-1-1701 Title.

This part is known as the "Depository Institution Data Match System and Levy Act."

Enacted by Chapter 326, 2016 General Session

59-1-1702 Definitions.

As used in this part:

- (1) "Agreement" means an agreement described in Section 59-1-1704 between a depository institution and the commission.

- (2) "Delinquent taxpayer" means a person against whom the commission is considered to have obtained a judgment for a liability under Section 59-1-1414.
- (3) "Depository institution" is a depository institution described in Section 7-1-103 that holds or receives deposits, savings, or share accounts.
- (4) "Depository institution data match system" means the database that the commission develops, maintains, and operates in accordance with Section 59-1-1703.
- (5) "Identifying information" means:
 - (a) the name of the account holder;
 - (b) the social security number of the account holder; or
 - (c) other identifying information.
- (6) "Liability" means the same as that term is defined in Section 59-1-1402.
- (7) "Satisfy a liability" means to pay in full a liability that is the subject of a levy under this part.

Enacted by Chapter 326, 2016 General Session

59-1-1703 Depository institution data match system.

- (1) The commission shall develop, maintain, and operate a database as provided in this section.
- (2) The database described in Subsection (1):
 - (a) shall use automated data exchanges;
 - (b) shall identify a delinquent taxpayer by identifying information;
 - (c) may be accessed only by the commission or a depository institution;
 - (d) shall be used to determine whether a delinquent taxpayer identified in the database has the same identifying information as that of an account holder at a depository institution; and
 - (e) shall be updated by the commission on at least a quarterly basis.

Enacted by Chapter 326, 2016 General Session

59-1-1704 Election to enter into an agreement.

- (1) A depository institution that does business in this state may elect to use the depository institution data match system to respond to judicial process against a delinquent taxpayer.
- (2) A depository institution may not make an election under Subsection (1) unless the commission approves the election.
- (3) A depository institution that elects to use the depository institution data match system shall enter into an agreement with the commission.
- (4) An agreement under this section shall:
 - (a) address the operation of the depository institution data match system;
 - (b) require the depository institution to comply with this part;
 - (c) address reimbursement to the depository institution for complying with this part; and
 - (d) provide for the security and confidentiality of data contained in the depository institution data match system.
- (5) An election under this section does not preclude the commission from requiring a depository institution to respond to judicial process against a delinquent taxpayer:
 - (a) by means other than the depository institution data match system; and
 - (b) as provided by law.

Enacted by Chapter 326, 2016 General Session

59-1-1705 Requirement to access depository institution data match system.

- (1) A depository institution that enters into an agreement with the commission in accordance with Section 59-1-1704 shall access the depository institution data match system on or before the 15th day of each calendar quarter.
- (2) A depository institution that accesses the depository institution data match system shall determine whether a delinquent taxpayer identified in the depository institution data match system has the same identifying information as that of an account holder at the depository institution.

Enacted by Chapter 326, 2016 General Session

59-1-1706 Requirement for a depository institution to provide information to the commission.

A depository institution that determines under Section 59-1-1705 that a delinquent taxpayer identified in the depository institution data match system has the same identifying information as that of an account holder at the depository institution shall provide the commission, within five days after the day on which the depository institution accesses the depository institution data match system:

- (1) the name of the account holder;
- (2) the address of the account holder;
- (3) the account number of the account holder;
- (4) the account balance of the account holder on the day that the depository institution provides the commission the information required by this section;
- (5) the type of account of the account holder;
- (6) the social security number of the account holder;
- (7) other information that identifies the account holder; and
- (8) the name of, and contact information for, other account holders that have access to the account.

Enacted by Chapter 326, 2016 General Session

59-1-1707 Commission requirement to provide notice of levy to depository institution -- Duration of levy.

- (1) The commission shall provide, within three business days after a depository institution provides the commission information described in Section 59-1-1706, a notice of levy to the depository institution by electronic means:
 - (a) stating that the commission levies an amount equal to the liability of a delinquent taxpayer that is an account holder at the depository institution; and
 - (b) identifying the account subject to levy.
- (2) A levy described in Subsection (1) is valid until the earlier of:
 - (a) the day on which the commission releases the levy;
 - (b) the day on which the delinquent taxpayer satisfies the liability; or
 - (c) the day on which the depository institution releases, in accordance with Section 59-1-1711, the amounts deposited into the account of the delinquent taxpayer.
- (3) The commission shall provide notice to a depository institution by electronic means:
 - (a) if the commission releases a levy, no later than one business day after the day on which the commission releases the levy; or
 - (b) if a delinquent taxpayer satisfies the liability, no later than one business day after the day on which the delinquent taxpayer satisfies the liability.

Enacted by Chapter 326, 2016 General Session

59-1-1708 Depository institution requirement to secure amount subject to levy in account holder's account.

- (1) Subject to Subsection (2), before the later of two business days after the day on which, or 48 hours after the time at which, a depository institution receives a notice of levy described in Section 59-1-1707 from the commission, the depository institution shall secure the amount subject to levy in a delinquent taxpayer's account by prohibiting:
 - (a) any person that has access to the delinquent taxpayer's account from accessing the amount; or
 - (b) the transfer or other disposition of the amount.
- (2) For purposes of Subsection (1), a depository institution shall secure an amount subject to levy regardless of whether a person other than the delinquent taxpayer has access to the account or is an account holder.

Enacted by Chapter 326, 2016 General Session

59-1-1709 Commission to send notice to delinquent taxpayer.

- (1) The commission shall, within three business days after the day on which the commission provides a notice of levy described in Section 59-1-1707 to a depository institution, notify a delinquent taxpayer that the commission has issued the notice of levy to the depository institution.
- (2) The notice described in Subsection (1) shall:
 - (a) state the amount subject to levy as stated in the notice of levy described in Section 59-1-1707;
 - (b) notify the delinquent taxpayer that the depository institution is required to secure the amount subject to levy in accordance with Section 59-1-1708;
 - (c) identify each account subject to levy at the depository institution; and
 - (d) describe the actions a delinquent taxpayer may take to:
 - (i) satisfy the liability; or
 - (ii) resolve an issue as to whether the commission has the authority to receive from a depository institution the amount subject to levy at the depository institution.

Enacted by Chapter 326, 2016 General Session

59-1-1710 Commission to determine portion of an amount subject to levy -- Process for resolution of dispute -- Extension of certain time periods -- District court action -- Rulemaking authority.

- (1) In accordance with this section, the commission, in consultation with the depository institution, shall determine the portion of the amount subject to a levy under this part.
- (2) The time period for making the determination required by Subsection (1):
 - (a) begins on the day on which the commission provides a notice of levy described in Section 59-1-1707 to a depository institution; and
 - (b) ends on the first business day after a 21-day period beginning on the day described in Subsection (2)(a).

- (3) The commission shall provide notice to a depository institution, no later than the last day of the time period described in Subsection (2), of the portion of the amount subject to a levy under this part.
- (4) The portion of an amount subject to levy under this part that the commission may receive from a depository institution may not exceed the lesser of:
 - (a) the amount of the liability that is subject to the levy;
 - (b) the amount the commission would have been able to receive had the commission obtained a writ of garnishment; or
 - (c) the balance of the delinquent taxpayer's account that a depository institution has secured or will secure in accordance with Section 59-1-1708 minus any amounts that the depository institution holds as a security interest.
- (5) As part of the determination required by Subsection (1), the commission shall allow a delinquent taxpayer to communicate with and provide information to the commission.
- (6) The commission shall order a conference between the commission and the delinquent taxpayer in accordance with Section 63G-4-102 if:
 - (a) the commission finds that there is a dispute as to an issue related to the determination required by Subsection (1); or
 - (b) a delinquent taxpayer requests the conference to address a dispute as to an issue related to the determination required by Subsection (1).
- (7) The time period beginning on the day on which the commission orders a conference in accordance with Subsection (6) and ending on the day on which the conference adjourns may not be included in calculating a time period:
 - (a) during which a levy is valid;
 - (b) during which a depository institution is required to secure an amount in accordance with Section 59-1-1708;
 - (c) for making the determination required by Subsection (1); or
 - (d) for requiring a depository institution to release a portion of an amount to the commission in accordance with Section 59-1-1711.
- (8) If a conference described in Subsection (6) does not result in the resolution of the issues related to the determination required by Subsection (1), a delinquent taxpayer may file an action in district court:
 - (a) within 14 days after the day on which a conference described in Subsection (6) adjourns; and
 - (b) in the district court located in the county of residence or principal place of business of the delinquent taxpayer.
- (9)
 - (a) Subject to Subsection (9)(b), the time period beginning on the day on which a delinquent taxpayer files an action in accordance with Subsection (8) and ending on the day on which the action becomes final may not be included in calculating a time period:
 - (i) during which a levy is valid;
 - (ii) during which a depository institution is required to secure an amount in accordance with Section 59-1-1708;
 - (iii) for making the determination required by Subsection (1); or
 - (iv) for requiring a depository institution to release a portion of an amount to the commission in accordance with Section 59-1-1711.
 - (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for determining when an action under this section becomes final.

Enacted by Chapter 326, 2016 General Session

59-1-1711 Depository institution to release portion of amount subject to levy.

- (1) Subject to the other provisions of this section, a depository institution shall release the portion of the amount subject to a levy under this part that the commission may receive in accordance with Section 59-1-1710 from the depository institution.
- (2) On the first business day after the day on which the commission provides the notice described in Subsection 59-1-1710(3) to the depository institution, the depository institution shall release the lesser of the following:
 - (a) the portion of the amount the commission may receive in accordance with Section 59-1-1710 from the depository institution; or
 - (b) the balance of the delinquent taxpayer's account on the first business day after the day on which the commission provides the notice described in Subsection 59-1-1710(3) to the depository institution minus:
 - (i) the \$10 reimbursement to the depository institution described in Section 59-1-1713; and
 - (ii) the fees that an account holder agreed to pay the depository institution to process a writ of garnishment in a deposit agreement.

Enacted by Chapter 326, 2016 General Session

59-1-1712 Limitations on commission authority to levy.

- (1) During the time period that a levy the commission imposes on the account of a delinquent taxpayer is valid, the commission may not impose another levy on that account.
- (2) The commission may impose a levy in accordance with the procedures and requirements of this part on an account subject to a previous levy under this part if that previous levy is no longer valid.

Enacted by Chapter 326, 2016 General Session

59-1-1713 Commission payment to depository institution to secure amount subject to levy.

In addition to any compensation that the commission pays to the depository institution in accordance with an agreement, the commission shall pay the depository institution \$10 if the depository institution secures an amount subject to levy under Section 59-1-1708.

Enacted by Chapter 326, 2016 General Session

59-1-1714 Amount levied or released in error -- Rulemaking authority.

- (1) If the commission levies an amount in error, the commission shall:
 - (a) pay the cost of a depository institution charge incurred as a result of the levy; or
 - (b) if a person other than the commission pays the depository institution charge, reimburse the person for the depository institution charge incurred as a result of the levy.
- (2) If a depository institution releases an amount in an account holder's account to the commission in error, the commission shall return the amount to the depository institution by electronic means for deposit into the account holder's account.
- (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules prescribing:
 - (a) what constitutes levying or releasing an amount in error; and
 - (b) the depository institution charges the commission shall pay.

Enacted by Chapter 326, 2016 General Session

**59-1-1715 Limits on a depository institution's authority to disclose or provide notice --
Depository institution authority to provide information.**

- (1) Before a depository institution secures an amount subject to levy in a delinquent taxpayer's account in accordance with Section 59-1-1708 and except as provided in Subsection (2), a depository institution may not disclose or provide notice to an account holder at the depository institution that the depository institution:
 - (a) provided information to the commission or the commission provided information to the depository institution in relation to the account holder or the account holder's account in accordance with this part; or
 - (b) took an action in relation to the account holder or the account holder's account in accordance with this part.
- (2) A depository institution may provide information to an account holder describing the depository institution's duties under this part if the information the depository institution provides does not identify that the depository institution:
 - (a) provides or has provided information to the commission in relation to a particular account holder or account holder's account in accordance with this part; or
 - (b) takes or has taken an action in relation to a particular account holder or account holder's account in accordance with this part.

Enacted by Chapter 326, 2016 General Session

59-1-1716 Limits on depository institution liability.

A depository institution is not liable to a person for the following if the depository institution acts in good faith:

- (1) providing or failing to provide information; or
- (2) taking or failing to take an action.

Enacted by Chapter 326, 2016 General Session

59-1-1717 Confidentiality of information.

Except for the exchange of information between the commission and a depository institution that is necessary to meet the requirements of this part, information the commission obtains from a depository institution is subject to Section 59-1-403 as if the information had been gained from a return filed with the commission.

Enacted by Chapter 326, 2016 General Session